

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

GROENEVELD TRANSPORT
EFFICIENCY INC.,

Plaintiff,

vs.

LUBECORE INTERNATIONAL,
INC.,

Defendant.

)
)
) Judge Nugent
) Cleveland, Ohio
)
) Civil Action
) Number 1:10CV702
)
)

TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE DONALD C. NUGENT

JUDGE OF SAID COURT,

ON THURSDAY, OCTOBER 13, 2011

VOLUME 1

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1 THURSDAY SESSION, OCTOBER 13, 2011, AT 10:22 A.M.

2 * * * * *

3 THE COURT: Okay.

4 Now, ladies and gentlemen, the next order of business,
10:24:42 5 as we told you, would be the opening statements of the
6 lawyers and because the Plaintiff has the burden of proof,
7 they go first. That means this is like reading a book or
8 something. You can look at the cover, and it gives you a
9 synopsis or summary or overview of what the lawyers expect
10:24:58 10 the evidence to show. It's not evidence. It's just a way
11 that a lawyer can present to you what they think the
12 evidence is going to disclose as the trial progresses and
13 allow you to kind of get an idea of what to expect during
14 the course of the trial. So don't substitute what a lawyer
10:25:17 15 says for the evidence because what I say certainly is not
16 evidence. Remember I told you what the evidence was. And
17 what a lawyer says is not evidence. We're allowed to make
18 comments and the lawyers are allowed to make opening
19 statements in an effort to assist in understanding the
10:25:31 20 evidence as it does unfold during the course of the trial.

21 So, Ms. Michelson, you may proceed.

22 MS. MICHELSON: Thank you, your Honor.

23

24

25

1 OPENING STATEMENTS ON BEHALF OF THE PLAINTIFF

2 MS. MICHELSON: I do get to choose which mike
3 I use. Can I stand at this one?

4 THE COURT: I think so. Yeah. Can we see
10:25:52 5 you? No, we can't see you. Wait a minute. You want
6 yourself on TV for the thousands of fans? Why don't you go
7 back. And I don't want to do the camera.

8 MS. MICHELSON: To warn you, I'm probably
9 going to have to move here at this point to put things up on
10:26:13 10 the Elmo.

11 THE COURT: You have your assistant here. He
12 can do all that.

13 MS. MICHELSON: Okay. Thank you. I'll do my
14 best.

10:26:21 15 THE COURT: I know.

16 MS. MICHELSON: Ladies and gentlemen, your
17 Honor, counsel, Mr. Eissis, ladies and gentlemen. Good
18 morning. And once again, thank you for being here. We do
19 indeed appreciate your time and your attention to this
10:26:37 20 matter. As you know, I represent the Plaintiff in the case,
21 Groeneveld Transport Efficiency, Inc., Brunswick company,
22 along with my associate here, David Kunselman.

23 Ladies and gentlemen, this is a case about honor and
24 integrity and fairness in the business world. Our laws
10:27:02 25 allow fair competition. It is a valuable thing in our

1 system. But, unfair competition is unlawful, trade dress
2 infringement is unlawful, deceptive trade practices is
3 unlawful, and that's what this case is about.

4 Sometimes conduct goes too far, and the market is
10:27:39 5 damaged by such things, and consumers are deceived or misled
6 and people who invest in their businesses, in their image
7 here in the U.S., and worldwide are harmed by unfair
8 competition.

9 The evidence in this case, ladies and gentlemen, will
10:27:44 10 show that Jan Eissis and his company Lubecore, the Defendant
11 in this case, did just that. They are selling a product
12 that is an intentional copy, that looks like an intentional
13 copy of Groeneveld's automatic lubrication system pump.
14 You'll -- it's known as EP0 product. The zero referring to
10:28:10 15 the viscosity of the lubrication or grease that is used in
16 the system. EP-0 you'll hear that quite a bit during our --
17 during this trial.

18 That they copied intentionally the unique and
19 distinctive look of the Groeneveld pump, which is part of
10:28:31 20 the system that delivers grease to the various greasing
21 points in a very large truck, tractor and trailer. Tractor
22 being the front part, and the trailer being the part that
23 pulls in the back. I learned quite a bit about trucks along
24 with this case, although I haven't driven one yet.

10:28:52 25 Groeneveld designed and developed and created its pump

1 30 years ago, and it's been on the market since then.
2 They've been making it and selling it in the U.S. and all
3 over the world, and Lubecore's pump, unlike other
4 competitors in the industry, looks identical to the
10:29:20 5 Groeneveld EP-0. This is not fair, and it's deceptive as
6 the evidence will show you how and why during the course of
7 the trial.

8 Lubecore denies that it intentionally copied the pump.
9 They deny that the pump is a copy, is an intentional copy,
10:29:42 10 but you will see the pumps with your own eyes. You will see
11 that this thing -- and I'm going to show them to you. The
12 Groeneveld pump, please. Looks exactly like Lubecore's
13 pump. David, thank you.

14 The overall shape of the two are the same. The
10:30:25 15 placement of the parts are the same. The way it looks, the
16 way it is packaged and presented to the public as a unique
17 and distinctive Groeneveld product is mimicked with such
18 precision, that it can only be intentional. And to argue
19 that it is not is -- well, I leave that for you to decide
10:30:55 20 what to do with such arguments.

21 It can only be intentional and purposeful. And
22 because everybody else's pump in the market looks
23 different -- yes, ladies and gentlemen, there are
24 similarities. A pump is a pump. Okay? But, everybody
10:31:13 25 else's looks dissimilar from these.

1 Oh, your Honor, can you switch that Elmo on for us?

2 THE COURT: Sure can.

3 MS. MICHELSON: Thank you. There's one.

4 Here's another. Let's show them the Grease Jockey pump.

10:31:50 5 Says a few things on it, says Grease Jockey and Lubriquip.

6 Grease Jockey, I don't think it's going to stand by itself.

7 And it looks nothing like another one we were able to track

8 down by a company called Lincoln that I believe has recently

9 been bought by the SKF Company, which also at one time

10:32:52 10 bought this product.

11 Your Honor, thank you. Let's show them the Lincoln.

12 You can look at them with your own eyes. And you can decide

13 how closely the Defendant's product, Lubecore's product,

14 mimics the Groeneveld product.

10:33:35 15 The evidence will show that the Groeneveld, overall

16 shape of their thing, the -- and the way it's presented is

17 unique. It is the package around, the guts of the pump, the

18 thing that makes the pump grease, the thing that makes it

19 work, it's how they present it to the public to distinguish

10:34:00 20 themselves and identify themselves in the market.

21 I'm showing you a copy of the Groeneveld cut-away EP-0

22 pump, and you can see that in the housing that contains the

23 mechanism that the pistons, the balls and chains, whatever

24 they've got in there that makes the thing pump grease. And

10:34:29 25 at the outside is the package around which it is shaped.

1 The imitation is not intentional. The evidence -- is
2 not accidental. The evidence will show it can't be.
3 There's no way it looks like -- this identical by accident.
4 There's no way that somebody independently engineered,
10:35:02 5 designed a pump that happened to come out looking exactly
6 like Groeneveld's product.

7 Ladies and gentlemen, Lubecore and Mr. Eissis admit
8 that its pump does not have to look like the Groeneveld pump
9 to pump grease. Same way a car, a Volkswagen Beetle has a
10:35:35 10 shell around it, the guts that make it drive down the road
11 are in the engine under the hood. And the thing that's
12 around it is unique, and it's recognizable.

13 And, ladies and gentlemen, you know, it's obvious.
14 These are not consumer products that we're talking about.
10:35:54 15 These are not TV's that you will buy online. These are
16 industrial products. They have a purpose to pump the
17 grease, but that's not what the case is about. The case is
18 about whether people in the industry who are in this
19 industry look at the thing and go, "Oh, yeah I recognize
10:36:17 20 that. I recognize it as a Groeneveld because nothing else
21 looks quite like it, anywhere near like it." And they're
22 exposed to these things at trade shows throughout the United
23 States and elsewhere for 30 years.

24 As I said, Mr. Eissis and Lubecore admit and other
10:36:38 25 testimony in the case will demonstrate to you that the pump,

1 the Lubecore pump does not look -- need to have this exact
2 configuration in order to function because they will work
3 anyway.

4 In testimony given by Mr. Eissis in this case, he was
10:37:25 5 asked -- I'm sorry. I do need to read it for a second, and
6 then I'll show it to you. Sorry. "Are you disputing now
7 that the Lubecore pump would work even if it looked
8 different? I believe these other pumps work as well. I
9 know they also work."

10:37:54 10 He further admits, he argues that there are many
11 differences between his pump and the Groeneveld pump, and
12 that because there are many differences on the inside, the
13 guts, the thing that makes it pump grease, then the outside
14 could, in fact, look different. I'm going to read it to you
10:38:25 15 and then I'll do the same thing.

16 "Question: So there are many differences. That's
17 what you said, right?

18 "Answer: There are differences in the pump, yes.

19 "Question: The internal components inside the
10:38:46 20 housing?

21 "Answer: That's correct.

22 "Question: Okay. So the outside thing that contains,
23 it could be shaped differently, right?

24 "Answer: The outside could be shaped differently."

10:39:21 25 The evidence in the case will demonstrate to your

1 satisfaction that the operation of the pump is a -- is a
2 function of the internal components, and that nothing about
3 the outside of it makes it shoot grease through the system.
4 And so the outside of it may not look the same, especially
10:39:56 5 if -- it may not look the same to work. The evidence will
6 further show that people in the industry do indeed recognize
7 the pump as a Groeneveld by its shape, design, configuration
8 overall impression that it gives. I know it might be hard
9 to believe because we don't -- we live in this world, but
10:40:23 10 when you are in a specialized industry, there are
11 specialized products that you use and that people in those
12 industries have a recognition of something of a product that
13 they are exposed to and that they use because of their
14 experience the same way that when you see this item, you
10:40:44 15 recognize where it comes from immediately.

16 The bottle has a function. It holds the Coca-Cola.
17 It doesn't have to be shaped that way to do that job. It's
18 obvious.

19 So there's no reason for it to look identical.
10:41:31 20 There's no legitimate business for it to look identical.
21 There's no reason why a company, another company as
22 Mr. Eissis' company, is fairly new, would parrot somebody
23 else's identifiable trade dress if his goal was to establish
24 his own image, his own corporate identity, his own
10:41:55 25 reputation, his own brand recognition, other than to piggy

1 back on the reputation and the good will of an established
2 player in the market. And you're going to hear testimony
3 about all of this during the course of the trial.

4 Ladies and gentlemen, the facts and circumstances that
10:42:20 5 you'll be hearing about during this trial, yes, the copying,
6 the intentional copy, but also the marketing practices of
7 Lubecore and its distributors will convince you that people
8 in the industry are indeed likely to be confused, that the
9 market -- that it -- that the conduct injects uncertainty in
10:42:43 10 the market about who is the true manufacturer of the
11 Lubecore product, are they related, do they come from the
12 same source, are they made at the same factory. Because
13 they look the same, do they perform the same? Do they
14 perform as well?

10:43:04 15 You'll hear testimony that not only was Mr. Eissis
16 affiliated with Groeneveld for a substantial period of time,
17 and I'll get a little bit more into that in a minute, he, in
18 fact, was the head of North American operations for
19 Groeneveld. Let's see. I think for years, he started as an
10:43:31 20 independent distributor in Canada with a company called CPL.
21 Groeneveld purchased that company from him, and he stayed on
22 for a period of time as head of Northern American operations
23 for Groeneveld until approximately January of 2007.

24 I have a little thing here, evidence -- visual for you
10:43:55 25 so you can follow along because it's kind of hard to get all

1 those dates.

2 And ladies and gentlemen, not only was Mr. Eissis
3 affiliated with Groeneveld for many, many, many years.
4 Virtually, all of the distributors through which he sells
10:44:23 5 his product in the United States is handled by distributors
6 who were Groeneveld people as well, distributors, some
7 employees, so forth. You'll hear the specifics about that
8 during the course of the trial.

9 So you've got the product that looks exactly the same.
10:44:45 10 You've got the same guy making it. You've got a guy in
11 Korea -- Martin Vermeulen, who Mr. Eissis hired supposedly
12 to create this brand new pump. He claims that he did that
13 from scratch, by the way, that he didn't imitate Groeneveld
14 in order to come out with something that looks exactly like
10:45:08 15 it. You'll hear from him through the Defense case.

16 Mr. Vermeulen also worked for Groeneveld for many
17 years. The distributors worked with Groeneveld and handled
18 all these products for many years. There were periods of
19 time when, contrary to Groeneveld's policies, some of the
10:45:25 20 distributors were actually handling both products, adding
21 the confusion that you've got one, the possibility of this
22 confusion that these products are by and large the same
23 thing, come from the same source, the same origin, that they
24 are the same recipe inside because they look the same
10:45:51 25 outside and the same people made them and they're selling

1 them.

2 So Groeneveld -- the time line shows Groeneveld
3 started up in the Netherlands in 1971. It handled for
4 awhile a non-Groeneveld made product. It was a Grease
10:46:11 5 Jockey pump. Originally that was labeled with the
6 Groeneveld G. They imported it from the United States.
7 They put the label Groeneveld on it because they were
8 authorized to do so. Obviously the fact that the Groeneveld
9 label is on there does not mean that Groeneveld made it, so
10:46:40 10 the label's on them. I'm just going to tell you up front
11 you're going to hear testimony in this case about the
12 labels, that somehow the Lubecore label is on its identical
13 pump. Somehow no way anybody in their right mind could be
14 confused or uncertain about who made that Lubecore pump or
10:47:00 15 where it came from because they slap a sticker on part of
16 the reservoir there, and oh, by the way, it's got that
17 little red band. You'll hear about that as the big
18 differences that somehow tell anybody where these things
19 came from, who created it, its origin, its source. But, in
10:47:25 20 this industry, ladies and gentlemen, people are slapping
21 labels on things all the time. And the fact that a label
22 says one thing, you are going to hear evidence on this
23 does -- in one witness' words, it's the last thing he looks
24 at.

10:47:43 25 That Grease Jockey pump we just showed you before,

1 that I think I have a picture actually, this is actually a
2 Groeneveld pump, and it's relabeled by a business that used
3 to be a Groeneveld distributor, Fuel Systems, Inc. They
4 slap their own label on that. Fuel Systems, Inc., you will
10:48:15 5 hear is now Mr. Eissis' distributor.

6 This pump, the Grease Jockey we showed you earlier,
7 actually referred to the second generation Grease Jockey.
8 This one that Groeneveld used to sell is the first. So this
9 is the second generation. It's got the name Grease Jockey
10:48:39 10 on here. The resident of the picture is, but Grease Jockey,
11 and then below it says Lubriquip. You'll see a bunch of
12 pumps and pictures of pumps that have multiple labels. You
13 will hear testimony that competitors in the industry --
14 we're good, David. That's okay. They get the picture I
10:49:07 15 think. Thank you.

16 That competitors in the industry, they're buying,
17 selling each other all the time. So something that was a
18 Vogel is now SKF. The Lincoln is now owned by SKF. So the
19 label itself will not eliminate the likelihood of confusion
10:49:28 20 or uncertainty in the marketplace generated by the imitation
21 of Lubecore. Its intentional imitation, and by the other
22 marketing practices that you will hear about -- obviously
23 not going to discuss every single one of them now. The
24 witnesses will tell you. You will hear from -- you will
10:49:50 25 hear from the guy who designed the Groeneveld pump 30 years

1 ago. He's coming here. Is that -- van der Hulst. I
2 mentioned him earlier. And you will hear how Groeneveld
3 went about its design process and why it did what it did,
4 why it chose to make its thing look different than other
10:50:10 5 things in the market. And you will hear evidence that
6 Groeneveld's use of this design and this shape, this external
7 design, exclusively for, you know, 30 years. All of this,
8 essentially you will see at the end of the case how it's
9 relevant to what you have to decide in this trial.

10:50:31 10 As I said, Mr. Eissis left Groeneveld in 2007. He
11 formed a company called Orlaco Crane Cam in the spring of
12 '07. And if you're looking at the time line, the top line
13 basically shows you activity relating to Groeneveld. The
14 bottom line, the bottom under the dates here basically show
10:50:58 15 activity relating to Lubecore. So you can follow along. He
16 formed that company or Orlaco Crane Cam in the spring of '07
17 and hired Mr. Martin Vermeulen in Korea, he says, to design
18 an engineer brand new pump for his company, Orlaco, whose
19 name he changed to Lubecore, the Defendant in this case.

10:51:29 20 Soon thereafter, very soon thereafter, Groeneveld
21 discovered these pumps that looked exactly like its pump at
22 trade shows; first in Canada and then in the United States.
23 We are here about the activity in the United States. And
24 they discovered this product, this misleading and confusing
10:51:58 25 product being sold in the United States in, I would say

1 late, late 2009; investigated, determined the degree --
2 investigated the degree of imitation -- I would say
3 replication -- and eventually filed suit a short time later,
4 which is why we're here.

10:52:27 5 The -- here's the problem. The problem is that you
6 can't tell that a person, a customer or someone in the
7 industry cannot tell by looking at the Lubecore product
8 either where it came from or who created it and is likely to
9 believe that the guts inside of it are as good as the guts
10:53:00 10 inside the Groeneveld because they look exactly the same and
11 they're being sold by the same people and the same people
12 are involved, and it's deceptive and misleading because you
13 will hear it is not true, it is not the same, it does not
14 perform as well, it is different.

10:53:26 15 Mr. Eissis insists, and his designer engineer,
16 technician, Martin Vermeulen, insists there are significant
17 differences in the guts of their pump. And so to tell
18 people and represent and market it as interchangeable and
19 compatible -- and if you take this nut and screw to the
10:53:54 20 bolt, they work as well. All the parts -- by the way,
21 you'll hear there are 50 or more component parts inside each
22 one of these pumps, 50. Because those parts look identical
23 doesn't mean they are identical. And in addition to that,
24 Mr. Eissis says they're not identical, and so does
10:54:13 25 Mr. Vermeulen. So to market them to the public as such

1 is -- well, you'll decide and apply those facts to the law
2 and I'll let you draw your conclusions from that.

3 How do we know it doesn't work as well? If you take a
4 bolt from a Lubecore -- a Lubecore bolt and stick it in a
10:54:41 5 Groeneveld bolt, how do we know that the Lubecore reservoir
6 doesn't -- which is this where the grease is held. Doesn't
7 perform as well as the Groeneveld and, therefore, sullies
8 the image of the Groeneveld pump that Groeneveld has spent
9 time, money, and decades nurturing association between the
10:55:04 10 way their thing looks and their company and the quality of
11 their product.

12 How do we know that the Lubecore is not as good as the
13 Groeneveld after all? Well, Lubecore has recalled -- only
14 been in business, pump in the United States for like a year
10:55:22 15 or so, year 2009, you know, a couple years. They were
16 recalled already; out of his own mouth, seven or 800
17 recalled the pump, recalled them. They're trying to fix
18 them, but you know what? Fix them when it's your own image
19 that's starting to be associated with the product failures.
10:55:45 20 Not somebody else's image, not somebody else's brand
21 identity, because that's what trade dress really is.
22 Whether it's a logo or a -- or a trademark or whether it's
23 the way you wrap your product to present it to the public,
24 or whether you make your product look a certain way so that
10:56:08 25 it's different from everybody else's.

1 This is how we know. There's a mixture of a Lubecore
2 pump taken at a trade show. And you can see it's leaking
3 grease. Pumps aren't supposed to leak the grease. You'll
4 hear what the benefits are of an AMS/ALS system, know why
10:56:36 5 people buy them and product liability, manufacture
6 reputation, brand reputation, longevity in the market,
7 quality, all these issues are quite important.

8 And that's one picture. I got one more I pulled up
9 for you. Here's another one, the first you just saw was
10:56:58 10 brand new. Here's another one. And you can see, yes
11 compete fairly. Yes, do that. That's -- that's encouraged,
12 but don't take somebody else's image and brand recognition
13 and put something on the market like this without doing
14 adequate tests in advance to make sure that the public, the
10:57:31 15 market that has come to associate high quality with
16 something that looks -- and it is designed like the
17 Groeneveld. It becomes diluted somehow, less of an
18 association with that investment they've put into it.

19 By the way, you will hear that a significant
10:57:49 20 investment was made by Groeneveld over the years to nurture
21 an image of its pump and hold it out as its image, corporate
22 identity, brand recognition. It's on brochures. The
23 picture's on it, on the pumps. I'm not going to -- I'll
24 show them one example. Service trucks, I mean the pump is
10:58:09 25 on everything, and people will tell you that by the way as

1 well.

2 So, ladies and gentlemen, let me see my notes where I
3 am. So telling the market that the pumps and the parts are
4 interchangeable, that they're compatible with each other,
10:58:29 5 the Groeneveld and the Lubecore, which people, of course,
6 believe because I mean look at them. I mean they look
7 exactly the same. So telling them that they're identical or
8 suggest or implying that they are is inaccurate because in
9 addition, something can fit. You can fit it in to another
10:58:57 10 piece, but it doesn't technically fit. It doesn't
11 technically fit the way it's supposed to, to make sure that
12 those sales are tight, to make sure that they perform
13 optimally the way they were designed. And that is deceptive
14 as well because, of course, people will think that they will
10:59:22 15 because they look exactly the same and the people selling
16 them tell them that it does.

17 Hokey-doke. Groeneveld's product, EP-0 pump, which is
18 only one other product line, but a big one for them you'll
19 hear. It's tried, it's true, it's tested, it's withstood
10:59:47 20 the test of time. People in the industry recognize it on
21 sight by the way it looks; its unique shape, its j unique
22 design, its unique appearance. It is an industrial product.
23 It's supposed do what the people who buy it buy it to do, of
24 course. Like you buy a car, you -- it drives from Point A
11:00:14 25 to Point B, same sort of thing happens with an industrial

1 product. It can have, in addition to this function,
2 functioning aspect of it, this visual aspect. Internal
3 versus external.

4 You know, I was going to tell you a little bit about
11:00:37 5 automatic lubrication systems, how they work or where they
6 are. You know, let's just do that real quick if you don't
7 mind. Just turn around that. I'm not going to spend too
8 much time on it because, frankly, you'll hear about it from
9 people who do it for a living, but this will help you
11:00:53 10 visualize the pump itself -- by the way, the pumping system,
11 automatic lubrication system that's put on the trailer and
12 then there's another one usually on the tractors. And I'm
13 just going to show you where -- where it appears in a
14 picture. So that's all actually a picture of a Groeneveld
11:01:23 15 pump on a truck. So you kind of have an idea where this
16 would be when they are used.

17 There's a lot of room for growth that adds to the
18 likelihood of uncertainty in the marketplace because the way
19 people coming into the new market may not understand all
11:01:42 20 these issues and all these distinctions because people have
21 been involved for quite awhile. But, you'll still hear much
22 testimony of people involved in the industry for quite
23 awhile, and it confused them. So the -- this just basically
24 gives you really a shorthand sketch. You see the front of
11:02:08 25 the truck here. You put little headlights on them so you

1 can have an idea, which is the front versus the back. And
2 you see where the pump is generally located. It's connected
3 by a main line hose that is the pink -- the hot pink item to
4 distribution blocks. In the distribution blocks, also
11:02:30 5 called mitering device, also called a manifold, also called
6 by some people, dozers. That basically controls the output
7 of grease on the secondary lines, which are the thinner pink
8 lines to the greasing points, and there are a lot of them on
9 a truck as you can imagine. There are a lot of moving parts
11:02:51 10 on the truck and all need to be greased.

11 There are pneumatic versus electric operating pumps,
12 pneumatic brake air pressure. You're going to hear a lot
13 about this from witnesses. The air pressure works in the
14 pump to push grease and distribute it throughout the truck
11:03:16 15 through the main line hose to the distribution blocks and
16 the secondary lines to the greasing points. It's preset on
17 the timer. So the timer is part of the system as well. And
18 you can on the Groeneveld system in the Lubecore system that
19 Defendant copied, you can also preset the amount, precise
11:03:34 20 amount of grease to be released to each greasing point
21 because different greasing points on the truck mean
22 different amounts of grease, and the point of it is to give
23 a precise amount. So that's just basically how this thing
24 works. And I think I'm -- no.

11:03:57 25 So, ladies and gentlemen I'm going to sit down in a

1 minute. I'm going to ask you to pay attention as I know you
2 will closely to the evidence in the case. Evaluate the
3 credibility of the witnesses. That will be very important
4 in this matter in particular and reach a verdict that is
5 consistent with the evidence, the credible and reasonable
6 testimony that you will hear, the documents that you will
7 see, and we are confident that when you do, you will return
8 a favorable verdict for Groeneveld.

9 Thank you, and thank you, your Honor.

10 THE COURT: Thank you, Ms. Michelson.

11 Mr. Anastos.

12 OPENING STATEMENTS ON BEHALF OF THE DEFENSE

13 MR. ANASTOS: Good morning again, ladies and
14 gentlemen.

15 Ms. Michelson is 100 percent correct. This case is
16 about competition. And one of the first things I want to
17 ask you -- and no one has to answer this out loud, please --
18 is looking at those two pumps in front of you, there's one
19 on the left, one on the right, ask yourselves if you can
20 tell which one is the Groeneveld pump and which pump is the
21 Lubecore pump. Ask yourself if you can tell what color
22 Groeneveld associates it with in its trade. Ask yourself if
23 you can identify what color Lubecore uses to separate its
24 brand from Groeneveld.

25 Competition is the backbone of our economy. We all

1 know that. It's what gives us better products. It's what
2 gives us cheaper products. One of the best examples I can
3 remember in my life time -- and I think a lot of you will
4 remember this -- is in about the mid 70's, the United States
11:06:34 5 automakers started getting battered by imports from foreign
6 imports, mostly from Japan. Back then, our cars had a ton
7 of chrome on them, weren't particularly safe. They rusted
8 out pretty quickly. And nowadays, after 25 years of stiff
9 competition, we're the ones developing the cars that are
11:06:52 10 putting other people on their heels, and we are competing
11 with them with products that are better.

12 So this case is about competition. There's no
13 question about that. One of the ways people compete when
14 they -- when they want to bring a new product to the market
11:07:06 15 is they build the better mouse trap. That's what inventing
16 is all about in the United States. You build a better mouse
17 trap and try to sell it. That's how people compete with one
18 another. Mr. Eissis and Lubecore believe 100 percent they
19 have designed a better mouse trap than the Groeneveld mouse
11:07:25 20 trap, meaning a better pump for this lubrication system than
21 the Groeneveld pump. He may be wrong. Who knows. The only
22 way we'll know ultimately is what the market says. That's
23 what competition is about.

24 Five years from now, if Lubecore is out of business
11:07:41 25 because it's got a crappy pump, then he failed. His pump

1 wasn't better than the Groeneveld pump. But, one of the
2 questions you have to ask yourself sitting here today is
3 who's competing fairly, and who is not competing fairly.

4 We're sitting here today because Groeneveld sued
11:07:56 5 Lubecore. You're all sitting here today because Groeneveld
6 sued Lubecore saying that it has a protectable interest in
7 that green bump, and Mr. Eissis and Lubecore are violating
8 the interest with the pump. One of the things to ask
9 yourself looking at those things is what exactly is the
11:08:15 10 trade dress Groeneveld has out there that it's claiming
11 everybody recognizes.

12 Let's take a little look at some of the literature
13 they use to sell their pumps. Can we go to the exhibits?
14 These aren't my exhibits. These are theirs. Remember they
11:08:35 15 say the pump appears on all of their literature? What's on
16 that pump? The green Groeneveld label, the green Groeneveld
17 trade market on the top, the big G, and they're in fact
18 using, even in their brochures, use a shorter pump, two
19 different sizes. Reservoirs come in two different sizes; a
11:08:56 20 smaller size and a larger size. You think they used the
21 smaller size in that one just so the label could show more?
22 The label extends from the bottom to the top. So that
23 everybody can see that it's a Groeneveld. There's --
24 there's no picture in this brochure of that pump without the
11:09:11 25 label on it.

1 Let's look at another one. It would be the same over
2 and over and over in the case. They want you to believe
3 that it's the look of this pump that people in the industry
4 used to identify it. But, nowhere will you ever see -- for
11:09:31 5 goodness sakes. If the look of the pump identified it as
6 the Groeneveld pump, why do they need this great big green
7 label on it with the green Groeneveld logo? Why? What's
8 the point?

9 Anyway, here's one of their pumps. They were correct
11:09:47 10 they manufactured a number of them. This is, again, one of
11 their broad brochures. The green Groeneveld label takes up
12 the whole reservoir on all of those pumps. Now, do you
13 think Groeneveld would stand here -- we're talking about the
14 EP0 pump, but if you or I made a pump that looked like the
11:10:07 15 second or third or the fourth or the fifth one in this
16 lineup here, would Groeneveld be suing you or I because we
17 have violated their trade dress? Of course, not. There is
18 no trade dress.

19 This is about Groeneveld not wanting to compete fairly
11:10:20 20 with Mr. Eissis and Lubecore. And what they're trying to do
21 is turn all that on its head and say that Mr. Eissis has
22 horns, is the devil, and is doing everything he can to
23 confuse the marketplace. Well, he's not.

24 Let's talk about confusion for just a second. When
11:10:41 25 Ms. Michelson was up here a few moments ago, she was showing

1 you pictures of pumps and saying this one doesn't look like
2 the Groeneveld pump. Well, of course, it doesn't. Listen
3 to the evidence carefully in this case. This is a different
4 kind of pump. This is an electric-driven pump; not a
11:10:58 5 pneumatic pump. The pumps we're talking about here are
6 pumps that work off of -- we pull up next to a truck all the
7 time when you hear the air hissing. Trucks have their own
8 compressed air system to work their brakes. The industrial
9 equipment, like the front end loaders and such, have the
11:11:15 10 same kind of system. So they can use these -- they can use
11 pneumatic pumps where a line from the air pressurized line
12 goes in and it works the pump. This is an electric pump.
13 It's comparing not even apples to oranges. Even worse than
14 that; a completely different pump. And Ms. Michelson stood
11:11:35 15 up here and wanted you to believe because our pump doesn't
16 look like this one, there's something -- or that the pumps
17 can all look differently. There's something sinister about
18 that. Well, that one looks different because it's a
19 different kind of pump altogether, and that's what you are
11:11:48 20 going to hear a lot of in this case.

21 Put the leaky pump up there. This is what they're
22 going use to build their whole argument that Groeneveld --
23 or Lubecore is somehow sullyng their reputation because we
24 have leaking pumps. We had a leaking pump in the first go
11:12:09 25 round of pumps, and there will be testimony about this, that

1 had a bad seal between the reservoir and the base. In the
2 first design of it, there was a problem. Gee, what
3 happened? We -- we recalled them. They make that sound so
4 awful. We recalled our product and we fixed it. Did we
11:12:25 5 charge anybody to fix it? Is the problem fixed? Is it
6 annoying to the customer to have something recalled? Sure.
7 We all know that, but we've all been subject to recall all
8 the time. It doesn't mean the product is bad. In fact, it
9 leans more to substantiate the goodness of the company that
11:12:43 10 would go out and do the recall. But, that's the kind of
11 innuendo on top of innuendo you'll get, because we did a
12 recall -- and trust me, you'll hear Groeneveld has done
13 recalls. They've had warranty claims. Groeneveld has done
14 recalls. Groeneveld is still working to get its product
11:12:59 15 right, but that's okay for them. What's not okay for them
16 is for us to have a leaky pump because somehow our leaky
17 pump is dragging down their reputation.

18 And by the way, that was a pump at a trade show.
19 Whose reputation do you think that was hurting? Lubecore,
11:13:15 20 big red Lubecore label with a big hunk of grease on it,
21 whose reputation was that hurting?

22 You will hear no testimony in this case that any kind
23 of leaking pump, anybody on the planet, that any kind of
24 Lubecore leaking pump, that anybody on the planet has ever
11:13:30 25 associated with the Groeneveld pump and thought, "Oh, my

1 God. Those Lubecore pumps, they leak. That must mean the
2 Groeneveld products are horrible." It's never going to
3 happen.

4 Nobody associates the two products with one another
11:13:43 5 because they're clearly labeled and branded. And as the
6 evidence will show you, Mr. Eissis is doing everything in
7 his power to separate his brand from Groeneveld. They do
8 fact sheets. They go out and sell their pump by saying --
9 depending on who they think they're competing against, and
11:13:59 10 you'll see evidence of this. If they're competing against
11 someone who thinks they won it by a Grease Jockey system and
12 they do a fact sheet that says here's the reason why our
13 pump is better than the other one, gee, that's sinister
14 competition. And when they do a competition against
11:14:13 15 Groeneveld, if they think the customer's interested in
16 Groeneveld and the choice is between Groeneveld and
17 Lubecore, what do they do? They do a fact sheet. They tell
18 them the reasons why they think their pump is better and why
19 they think their pump can perform better than the Groeneveld
11:14:27 20 pump. Is that horrible? What's wrong with that? That's
21 what people do all the time in sales. They try to say, "My
22 product is better than your product. So please consider
23 buying mine." But you're going to hear that somehow that's
24 bad. Somehow it's bad that Mr. Eissis -- people buy grease
11:14:51 25 for these pumps, obviously, and sometimes people have

1 switched from owning Lubecore pumps or owning Lubecore pumps
2 -- excuse me -- Groeneveld pumps to owning Lubecore pumps.

3 Grease can be used in either one of them. But
4 Groeneveld offers a warranty on its grease. So what has
11:15:07 5 Mr. Eissis done to compete with Groeneveld and try to sell
6 his own pumps? He's offered warranty to people who used to
7 use Groeneveld pumps and who still have Groeneveld grease in
8 their inventory. Wow. That's the another sinister thing;
9 trying to help the customer and make the sale. But, all of
11:15:25 10 this is going to be made to sound like we're trying to do
11 horrible, evil things, and that the world is going to
12 collapse because the world -- the customer base is going to
13 be confused by the look of these pumps when they look
14 completely different.

11:15:40 15 Ms. Michelson has given you background already. I'm
16 going to run through it as quickly as I can. Mr. Eissis has
17 been an entrepreneur all his life. He formed a company
18 called CPL Systems back in 1988 and, yes, in the automatic
19 lubrication system business at least since 1988. He was a
11:16:03 20 distributor for Groeneveld. He eventually sold his business
21 to Groeneveld in a couple of transactions in 2001 and 2004,
22 and he became an employee of Groeneveld.

23 Two parted company, let's say, in the spring of 2007,
24 and the resourceful Mr. Eissis decided, "Gee, what should I
11:16:24 25 do next?" He formed a company called Orlacka Crane Cam that

1 manufactured and sold cameras for use on high-lift cranes
2 for people to be able to, you know, watch what they're
3 doing. But, then he decided he might want to get back into
4 the automated lubrication system business. And at a trade
5 show in the fall of 2007, he ran into a gentleman named
6 Martin Vermeulen. You are going to hear a lot of about
7 Martin Vermeulen because they're going to try to make him
8 sound like he doesn't know what he's talking about.
9 Mr. Vermeulen is an automotive engineer with a background in
10 the industry for at least 20, 25 years. He used to work for
11 Groeneveld, and you're going to hear them say -- they're
12 going to put a witness up there named Willem van der Hulst.
13 They're going to say that Mr. van der Hulst designed this
14 EP0 pump. Well, you're going to hear from Mr. Vermeulen,
15 and that isn't true. There was a team, there was a team of
16 people put together by Groeneveld to come up with a new
17 pump, and what they were trying to do was improve on the
18 product that they had been selling. You've seen the
19 pictures of the Grease Jockey pump that Groeneveld had been
20 selling with its label on it. That's fine. But, they were
21 given instructions to make a better pump, to come up with a
22 pump that had a higher grease output and had a higher volume
23 reservoir on it. So they sat down and they figured out --
24 they figured out how they can do this. They designed the
25 interior, and then they figured out how to -- what the --

1 excuse me. They designed the interior, and there were
2 really two pieces to this thing, as you'll see many people
3 talk about this, what's called the base and then there's the
4 reservoir on top. Take a look at that base. It's very
11:18:09 5 irregularly shaped. It's not particularly round. It's got
6 things jutting off of it in terms of -- look at the black
7 part. It's got in's and out on the black part, and the
8 reason it has in's and out on the black part is because it
9 follows the interior look -- the internal mechanisms inside.
11:18:27 10 When this -- when the base was manufactured, the idea was --
11 and this should come as no surprise to anyone to use the
12 least amount of -- it's an aluminum alloy -- the least
13 amount of aluminum possible to control costs, make it as --
14 optimize the use of material in order to get us a product
11:18:48 15 that we can -- a good product that we can manufacture at the
16 lowest cost. That's what manufacturers do.

17 And why didn't they do that? So that when they sell
18 the product, they can get a higher margin. If they can make
19 the base for \$10 and sell it for 20, then they make \$10. If
11:19:03 20 they have to pay \$15 for the base and sell it for 20, they
21 only get \$5.

22 So the marching orders on the base was to make it as
23 economically as the physics of the machine required. That's
24 why it looks the way it does. Nobody sat down and designed
11:19:17 25 that base because they wanted something that looked nice.

1 All right?

2 What's the reservoir? Mr. Vermeulen will testify they
3 wanted a reservoir that was clear. The Grease Jockey pump
4 that you saw before had a bladder-type reservoir. What's
11:19:31 5 this reservoir? It's clear plastic. Okay? They wanted
6 clear plastic, and they wanted plastic that would -- that
7 would not deteriorate under the chemicals of the grease
8 inside of it and that would control the -- keep the grease
9 from deteriorating in UV lighting. That's neither here nor
11:19:50 10 there.

11 What did they do? They went out and found this
12 plastic tubing. One company manufactured these three or
13 six-meter-long tubes and they started cutting it up and cut
14 it into different sizes for two different size reservoirs.
11:20:08 15 The reservoirs hold an amount of grease calculated to last
16 for a truck's service interval. You can buy the lower --
17 the two kilo one, or the four kilo one I think is what they
18 are, and you do that because you want to choose between how
19 long you want to go between times when you need to fill this
11:20:25 20 thing up.

21 So the size of the thing is determined by how much
22 grease is necessary for the truck to use between its --
23 whatever service intervals they are, 30,000 miles, 10,000
24 miles, 15,000 miles. So what Groeneveld wants you to
11:20:39 25 believe somehow is that it has a protectable interest in a

1 base that was formed just to be the cheapest most efficient
2 optimal use of the material that was necessary to make the
3 product with a -- with a piece of round plastic cylinder
4 slapped on top. That's what it is, folks. There was no
11:21:04 5 effort to make it look pretty. There was no effort to make
6 it look nice. It's a pump. What makes it look pretty and
7 nice is the Groeneveld label on it. Doesn't it? I mean
8 it's a nice label, just like the Lubecore label was a nice
9 label.

11:21:18 10 So after -- after Mr. Vermeulen makes the pump,
11 Lubecore changes the name from Orlacka Crane Cam to Lubecore
12 International and starts selling these. By the way, there's
13 been a lot of talk about copying. Let's talk about that for
14 a second.

11:21:41 15 Mr. Eissis will testify that he did not ask
16 Mr. Vermeulen to copy the look of the Groeneveld pump.
17 Mr. Vermeulen will testify that he had no instructions to
18 copy the look of the Groeneveld pump. Mr. Eissis will
19 testify that he's been in this industry for a lot of years.
11:22:01 20 The Groeneveld pump's a good pump. He used to sell it.
21 What did he want? He wanted a pump that incorporated all
22 the best features of all the pumps out there, and there are
23 a number of significant engineering differences in the
24 Lubecore pump over the Groeneveld pump and it looks like the
11:22:19 25 Groeneveld pump, I guess, because it's a good pump, and I

1 guess because it was in part designed by the same person,
2 Martin Vermeulen, who worked on the design engineering of
3 the Groeneveld pump 30 years before.

4 It's a good pump. If I wanted to make a good product,
11:22:35 5 wouldn't I start with a good product and then try to bring
6 to bear into that new product, all the good features from
7 other pumps that are out there?

8 Now, if Mr. Eissis was trying to piggy back off of
9 Groeneveld and wanting people to look at the Lubecore pump
11:23:00 10 and say it's a Groeneveld, one of two things has to be true;
11 either he's an idiot or he's not trying to do it. If he's
12 trying to do it, wouldn't he have made his labels green?
13 You're going to hear how the testimony in this case -- the
14 testimony in this case will be that Lubecore has tried to
11:23:16 15 differentiate its brand from the market, and one of the ways
16 he's tried to differentiate his brand from the market is via
17 the coloring.

18 The label on the -- on the Lubecore pump contains the
19 Lubecore trademark, that little tear drop logo there. Look
11:23:31 20 down at the identification plate. The identification plate
21 is stainless steel on the Lubecore pump and it, too, has the
22 red tear drop logo on it. Look at -- you can't really see
23 it very well, but there's something in there called the
24 follower plate. And right now, those plates are sitting --
11:23:48 25 there's a follower plate in the Groeneveld pump and there's

1 a follower plate in the Lubecore pump, but right now, those
2 are at the very bottom sitting on the top of the base. When
3 it gets filled with grease, those go up to the top. The
4 follower plate in the Lubecore pump is red. Why? Because
11:24:00 5 Mr. Eissis wanted to distinguish it. How far away do you
6 think you have to -- how far away do you think you can see
7 all that red on that pump?

8 Now, in terms of the marketing of these things, okay,
9 he's got his brands, he's got his distributors. One of the
11:24:15 10 distributors they're going to pick on a lot here is the
11 gentleman -- a company called Fuel Systems in Wisconsin. So
12 the gentleman you'll hear testify associated with that
13 company is Bill Koppelman. He's going to be made to sound
14 like a very bad person because they're going to say that he
11:24:33 15 was an exclusive Groeneveld distributor for a lot years and
16 then all of a sudden, he started selling Lubecore products
17 and they're bad.

18 You know what happened? There was never a contract
19 between Groeneveld and Fuel Systems with respect to
11:24:49 20 anything. They want to say he was an exclusive
21 distributorship. There's some kind of oral contract that
22 somebody made a long time ago, and sometime in 2007 or 2008,
23 Groeneveld came to him and wanted him to sign a contract.
24 He didn't want to sign a contract. He stopped doing
11:25:05 25 business with Groeneveld. He started doing business with

1 Lubecore.

2 And then you are going to hear well, Mr. Koppelman and
3 Fuel Systems are still selling both products; selling
4 Groeneveld pumps and selling Lubecore pumps. Whose fault is
5 that, ladies and gentlemen. It's not Fuel Systems' fault.
6 If Groeneveld thought it had a protectable interest in its
7 pumps, it would have purchased back from Fuel Systems the
8 pumps that Fuel Systems had bought from it to be sold.

9 What is Fuel Systems supposed to do with the pumps it
10 had on hand that it purchased from Groeneveld to sell to the
11 public? Is Fuel Systems supposed to eat them or is the
12 manufacturer who claims that it has a protectable interest
13 in the pump supposed to buy them back from the distributor?
14 Hasn't happened yet.

15 So I think Mr. Koppelman and Fuel Systems should be
16 able to make a living just like Mr. Eissis should by selling
17 his pump.

18 The sales process. There's going to be no testimony
19 in this case that the -- that the sales process for these
20 pumps are -- that it's an impulse buy. This isn't something
21 you walk up when you're buying everything else at the
22 drugstore and see some candy and say, "Gee, I'm going to
23 grab, you know, some Wrigley's gum or something." It's
24 complicated sales process. These things cost the whole
25 system let's say around a thousand dollars. \$2800 I'm told.

1 So if you're going to outfit a fleet, you have to make
2 decisions. First of all, you've got to decided do I want
3 one of these things at all in the first place or just use
4 the old greasing method where someone gets underneath and
11:26:42 5 grease manually. You do a cost effective study first, then
6 decide which one you want.

7 Both parties will testify that the sales process is a
8 complex one. You sit down, you talk with the people, they
9 make informed decisions, they decide what they want, they
11:26:55 10 buy or they don't buy, or if they do buy, they buy this
11 brand or that brand. There's no confusion over what they're
12 buying. Even if someone for a split second looked at the
13 Lubecore pump and said wow, that looks like the Groeneveld
14 pump, they know -- the testimony -- all the testimony will
11:27:09 15 be that as soon as they looked at the label, they knew it
16 wasn't anymore. Just like when I'm driving down the road
17 and you're all driving down the road and half the cars today
18 look alike. They look very similar to one another. And you
19 look at one and you say gee, that looks like a Hyundai
11:27:23 20 Sonata, and you drive by although it's a Honda.

21 It's just that simple. As soon as you take a look and
22 see a label and know what it is, you know it's not a
23 Hyundai; you know it's a Honda. That's -- everything is the
24 same here.

11:27:34 25 So I really do ask you to pay awful close attention to

1 the evidence because I -- their case is going to be built
2 on -- they've got nothing. It's going to be built on
3 innuendo on top of innuendo on top of innuendo. And
4 obviously, it's going to be your decision to sort it out,
11:27:52 5 but I do want to circle back to one point. We saw a lot of
6 pictures of pumps that look differently from this. This
7 pump could look different. No doubt about it. You can make
8 pumps to look different. The Judge will instruct you at the
9 end of the case why that doesn't matter in the least. It
11:28:04 10 doesn't matter if the pump can be made to look differently.
11 The question is whether or not it functions well, which it
12 does, and I can't instruct you as to the law, but pay
13 attention at the end because slight of hand to say that it
14 matters that it could have been made to look different than
11:28:20 15 it is.

16 Finally, you also heard Ms. Michelson say all of these
17 sales people and installers and distribute for Groeneveld, a
18 lot of them are formerly associated with all -- all people
19 now working for Lubecore were formerly associated with
11:28:39 20 Groeneveld. That's true to some extent. I mean what's bad
21 about that? If any of you were forming a new business, what
22 would you do? You work with the people you've networked
23 with for a long time. You see if they want to do business
24 with you. And you work with them because you know they
11:28:55 25 excel in, what they do. It's nothing more sinister than

1 that.

2 If Mr. Eissis and Lubecore are using former Groeneveld
3 employees, have hired them or former Groeneveld
4 distributors, former Groeneveld installers of these things,
11:29:09 5 the important part is they're former. They don't want to
6 work for Groeneveld. Either they've been terminated or
7 they've left. Are none of these people are allowed to work
8 either just because Groeneveld claims it has a protectable
9 interest in the pump?

11:29:23 10 You'll hear more of that also. Groeneveld doesn't
11 want this competition, but I submit to you that this is no
12 way to try to stop it. So listen carefully. Please sit
13 back and enjoy the ride. I'm sure you're not thrilled to be
14 sitting here. I hope we've made it sound like this is going
11:29:40 15 to be as exciting of a case as we possibly can in the
16 openings here. I hope you take something away from this
17 when it's all over and learn from this when it's all over
18 and hope you take something, some positive experience from
19 this by the time it's all over.

11:29:54 20 Thank you very much.

21 THE COURT: Thank you. You may call your
22 first witness.

23 MS. MICHELSON: One moment, your Honor.

24 Could I have a few minutes to organize my exhibits for
11:30:04 25 this witness, please?

Van der Hulst - Direct

1 THE COURT: Um-hum.

2 We'll go to 12:15 because I have a hearing at 1:00
3 that will take a bit. That should give you time, like an
4 hour and 15 minutes for lunch. Poor Shirle gets like at
5 least 45 minutes for a break.

6 Just walk over here, sir, if you will. Would you
7 raise your right hand for me.

8 THE WITNESS: Good morning.

9 THE COURT: Good morning.

10 WILLEM VAN DER HULST,
11 of lawful age, a witness called by the PLAINTIFF,
12 being first duly sworn, was examined
13 and testified as follows:

14 DIRECT EXAMINATION OF WILLEM VAN DER HULST

15 THE COURT: Sir, if you would, would you tell
16 us your full name and spell your last name.

17 THE WITNESS: I'm Willem van der Hulst. I'm
18 Dutch.

19 THE COURT: How do you spell your last name?

20 THE WITNESS: H-U-L-S-T.

21 THE COURT: H-U-L-S --

22 THE WITNESS: T.

23 MS. MICHELSON: T, as in Tom.

24 THE WITNESS: Yeah.

25 MS. MICHELSON: Thank you, your Honor.

Van der Hulst - Direct

1 BY MS. MICHELSON:

2 **Q.** Good morning, Mr. Van der Hulst. If you could please
3 -- you already told us your name. If you could please just
4 turn to the jury and tell them a little bit about yourself,
5 who you are, and where you live.

6 **A.** Okay. My name is Willem van der Hulst.

7 **Q.** I'm sorry. You do have an accent and you speak very
8 quickly.

9 **A.** Okay.

10 **Q.** My hearing's not so great. So if you could slow down,
11 that would be helpful.

12 **A.** I am Dutch. I live already in England. In Italy for
13 25 years. I'm married. I have two children. I started in
14 '78 by Groeneveld, and I started my career in '68, in a lot
15 of companies. So I have two companies of my life time. And
16 that's all.

17 **Q.** Okay.

18 So can you tell the jury a little bit about your
19 education and your employment history?

20 **A.** After my high school, I did in Holland, call it high
21 technical school, and I started working when I was 20 years
22 old, 21 years old in '69.

23 **Q.** What kinds of things do you learn in technical school?
24 I'm not familiar with the education system over there.

25 **A.** Yeah. In principle, everything is the base of the

Van der Hulst - Direct

1 mechanical world and material and designing and everything
2 has to do with mechanical studies.

3 Q. How many years is that program?

4 A. This is three years.

11:35:42 5 Q. And do you graduate and receive some sort of degree?

6 A. No, no degree.

7 Q. Certificate or something like that?

8 A. Yes, of course, a diploma.

9 Q. I don't know because --

11:35:53 10 A. It's a diploma, of course, yes.

11 Q. Is there a special name for the kind you received when
12 you finished that program?

13 A. Can you repeat the question?

14 Q. Is there a name for it? It is a certificate of
11:36:04 15 something or other?

16 A. No, just a diploma for high technical school.

17 Q. Okay. And when did you graduate from that program?

18 A. In August, '68, when I was 20 years, and then I
19 started working.

11:36:24 20 Q. And where did you have your first job after you
21 graduated?

22 A. My specialty was at that time engineering, central
23 heating. So it was -- I became a manager in the small
24 company for central heating equipment and installing, and I
11:36:40 25 did that for nine years, and then I went to Groeneveld.

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1 Q. What -- did you have a title at that company, that
2 heating company?

3 A. What?

4 Q. Did you have a title there?

11:36:51 5 A. No, I was the assistant manager. Later on, I was the
6 manager of the company.

7 Q. And how -- what's the size of that company?

8 A. Not so big. I think we were 30 people some in the
9 office, 25 technicians, and I was controlling the
11:37:09 10 technicians, how to install, designing, these kinds of
11 things.

12 Q. Designing what in particular?

13 A. Installation for central heating and houses, schools,
14 big buildings, high tech installations, yeah.

11:37:21 15 Q. Okay. And that was a company that was in the
16 Netherlands?

17 A. Origin in the same town where is Groeneveld and --

18 Q. Is that where you're originally from?

19 A. No, I'm from a small town near Amsterdam. When I was
11:37:38 20 born and when I was six, my parents went to Horenschin.

21 Q. Wait. Where?

22 A. In Horenschin.

23 Q. Oh, another town in --

24 A. The town where Groeneveld is situated.

11:37:51 25 Q. I see. And so you're 29 years old when you left that

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1 heating company about?

2 **A.** Yeah, I think, yeah, I was 29 years old, in '78 I
3 start in Groeneveld.

11:38:07

4 **Q.** And can you tell the jury -- can you tell the jury
5 about the Groeneveld company where it was started, who --
6 this sort of thing, a little bit about its history so they
7 have some context?

8 **A.** Okay.

11:38:23

9 Groeneveld, himself started in '71, a company, for
10 selling lubrication systems, because he sold it at that time
11 there was a gap in the market because there was nothing at
12 the time to lubricate cars and trucks and other machines,
13 and he involved the lubrication system from the United
14 States at that time, and when I joined, it was a good
15 company.

11:38:45

16 **Q.** There were --

17 **A.** When I joined the company in '78, it was a nice
18 company around 50, 60 people, and there were -- working only
19 in Holland at that time.

11:38:57

20 **Q.** Only --

21 **A.** In Holland so there was only sales company in Holland.

22 **Q.** And did you just tell the jury Mr. Groenveld's first
23 name, the man who I guess owns?

24 **A.** The founder is Mr. Art Groeneveld.

11:39:12

25 **Q.** And how -- Justin?

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1 **A.** The founder is Mr. Art Groeneveld.

2 **Q.** And is there a gentleman, Henk Groeneveld?

3 **A.** Henk Groeneveld is his younger brother.

4 **Q.** And are both gentlemen still involved with the
11:39:28 5 company?

6 **A.** At that time, yes, Mr. Art Groeneveld, the founder,
7 went out in '89. And then Mr. Henk Groeneveld took over and
8 he's still the president of the company.

9 **Q.** When you joined then the company, the Groeneveld
11:39:46 10 company in 1978, were they only handling automatic or
11 lubrication products -- or can you just describe what the
12 product line was when you joined? How's that?

13 **A.** Yeah, I -- long time ago, of course, but at that time
14 I did only lubrication systems for trucks, trailer, based on
11:40:09 15 oil, based on grease, and that was all at the moment, yeah.

16 **Q.** And I believe you said that when you joined the
17 company in '78, they were -- Groeneveld was importing and
18 selling somebody else's auto lube system?

19 **A.** Yeah. They imported lubrication systems from the
11:40:26 20 United States. The name of the producer was Sam Moore and
21 the name of the lubrication system was TSI at that moment.

22 **Q.** And did that company that you just identified come to
23 be known as Grease Jockey?

24 **A.** No, no.

11:40:43 25 **Q.** Tell the jury how Grease Jockey fits in. You know

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1 what? One thing. We have to talk one at a time. So if you
2 can just go a little slower and let me finish, I'll try not
3 to waste words.

4 **A.** I will do that. Excuse me.

11:40:56 5 **Q.** Thank you so much.

6 **A.** No, the Groeneveld LP is from much later, much later.
7 We never handle the name Grease Jockey. Groeneveld imported
8 the T-design that was the lubrication system at that time
9 from Samuel Moore, and I know, of course, that they changed
11:41:12 10 the name in the late 80's when Samuel Moore was bought by
11 another company, and then they changed the name to Grease
12 Jockey.

13 **Q.** I see.

14 **A.** But, we had no contact anymore at that time with this
11:41:23 15 company.

16 **Q.** With the American company?

17 **A.** American company, yes.

18 **Q.** Whatever it happened to be named at the time, you were
19 no longer affiliated with it?

11:41:32 20 **A.** Okay. Repeat.

21 **Q.** Groeneveld no longer had a relationship?

22 **A.** No, no.

23 **Q.** No longer -- see there you go. You didn't let me
24 finish the sentence. So, please, I know it's tough.

11:41:44 25 I'm going to just show you what we have marked as

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1 PX-87. Thank you, your Honor. Do you recognize this
2 photograph?

3 **A.** Yes, of course.

4 **Q.** Can you tell the jury what it is, please?

11:42:16 5 **A.** This is a lubrication pump, pneumatic lubrication pump
6 which at that time mounted on trucks and trailers and coming
7 from the United States.

8 **Q.** Okay. And the word you used, did you say pneumatic?

9 **A.** Pneumatic.

11:42:35 10 **Q.** The same?

11 **A.** Press by air, functioning with air.

12 **Q.** Okay.

13 **A.** Compressed air, yeah.

14 **Q.** And how was this product related to Groeneveld or
11:42:47 15 what's Groeneveld's role in this product?

16 **A.** At that time, we were importer from this lubrication
17 system. The single importer for all Europe. And we sold
18 this product. Not only that. Of course, there were also
19 main lines, hoses, dozers, timers. So this is a complete
11:43:06 20 kit. But, this was the main object of the lubrication
21 system.

22 **Q.** And about how long did Groeneveld continue to carry
23 this product line as its automatic lubrication system that's
24 identified in PX-87?

11:43:23 25 **A.** I think they started not immediately in '71 when the

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1 company was founded. I think it was much later. I think
2 around '76 until '81 around.

11:43:49

3 **Q.** Okay. Can you just describe for the jury what a
4 automated lubrication system is and what it does and the
5 various parts of the actual system?

11:44:09

6 **A.** Yeah. On the car or a trailer or hangar which is
7 driving on the road, there are moving objects and bearings,
8 steering parts, whatever, suspensions need to be greased.
9 Otherwise it's metal to metal and they will wear. So you
10 need to grease.

11:44:25

11 And there is a lot of greasing points on the car or on
12 a trailer. And normally these greasing points have to be
13 greased manually by bringing in the car, in the carriage,
14 and then they do that. But, by inventing this kind of
15 lubrication system, it was questionable to mount this,
16 installations on a car with tube, with dozers and tubes.
17 You go to the lubrication points and increase the car, the
18 hanger of the trailer automatically while the truck is
19 driving. So you don't need to bring the car in for
20 lubrication for maintenance, let's say, maintenance for lube
21 system every time when it is needed because the grease. And
22 then, of course, you have less wear. Automatically in these
23 kind of systems these days are very introduced in the
24 market.

11:44:44

11:44:59

25 **Q.** When you say they're very introduced in the market,

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1 can you explain what you mean by that?

2 **A.** It means that -- okay. In the 70's, it was just
3 coming up, and okay the need for this kind of system was
4 proven, and automatically the sales increased and the need
11:45:17 5 from the customers increased also, and then OM, the
6 manufacturers of trucks and trailers and other things
7 started to mount also, sometimes online, sometimes as an
8 optional. These kinds of installations on the machines.

9 **Q.** And can you just outline for the jury the benefits of
11:45:38 10 an automated lubrication system such as Groenveld's versus
11 manual or other systems as well?

12 **A.** Okay.

13 Manual, you can understand. You have to bring in the
14 truck in the carriage, on the exact time as needed, based on
11:45:56 15 the program of the maintenance. So this is, of course,
16 interruption of the transport, of the load. It cost money
17 when you mount the lubrication system on the truck. It's
18 greasing while it is driving, with very small injections.
19 So the wear is much less because you're sure that the
11:46:16 20 lubrication is done. Manual situations, sometimes it is not
21 done, based on the possibilities, based on whatever. And
22 it's also important that the circumstances, yeah, for where
23 the truck is driving can be influenced very much, the need
24 of lubrication system, because when it's driving, for
11:46:37 25 instance, on sandy road, water, especially in winter, the

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1 corrosion and bearings and all kinds of suspensions is very
2 high. And then the wear is much higher. So when you can
3 grease, I doubt it. It's, of course, a benefit and this
4 saves money. This is a proven story.

11:47:00

5 **Q.** Being Groeneveld in '78, was that your first
6 experience with lubrication systems?

7 **A.** Yes.

11:47:23

8 **Q.** I'm going to put this on our little device here and
9 just ask you, you had a chance to take a quick look
10 yesterday at an animation that we put together for the jury
11 in this case. Do you recall that?

12 **A.** Yeah, animation I've seen yesterday, yeah.

13 **Q.** And for the record, I'm identifying that as 133 --
14 Plaintiff's Exhibit 133-2.

11:47:42

15 And when you've had an opportunity to see that, did
16 you find that it depicted basics, the basics of how an auto
17 lube system works on the truck?

18 **A.** Gives us impression how it function and what it is and
19 where the lubrication points are located so you can -- yeah.

11:48:02

20 MS. MICHELSON: Your Honor, I would like to be
21 able to play that for the jury. It's very, very long.

22 THE COURT: Okay. Trying to figure out if I
23 can get the right --

24 MS. MICHELSON: I think --

11:48:10

25 THE COURT: It's on your computer, right?

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1 MS. MICHELSON: It is.

2 (Plaintiff's Exhibit 133-2 played.)

11:48:49

3 Q. So you can also as it plays maybe go back for a
4 second, please, just for the jury, what they are seeing in
5 the images?

6 A. This is an example of a truck, what you see on the
7 road everyday. And the pump which we have shown before is
8 mounted normally in the outside of the chassis of the truck.
9 And from there, the installation starts.

11:49:08

10 Q. Okay. Now, I think it's going to go to some sort of,
11 like a skeleton overview. So you see how the system fits
12 in. There we go.

13 A. So when you see the axles, on the axles or braking
14 axles, there are lubrication points.

11:49:26

15 Q. I don't even know, but where are the axles?

16 A. Where are -- where the wheels are mounted on. These
17 are the axles.

18 Q. Continue.

11:49:40

19 A. You see the small lines. I cannot -- I don't know if
20 they see what I'm doing, but there are lubrication points.

21 So we mount the block with dozers. Those are the injectors
22 which get the grease to the lubrication point, and these
23 blocks are connected to pump. It's a single-line system.

11:49:58

24 So we have formed the pump out. We can go to the left and
25 to the right. We connect the blocks. You can also connect

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1 different blocks behind each other. And what we do, the
2 tubes are full of grease. We pressurize the grease. The
3 doser picks for small injection and brings this grease to
4 the lubrication point where it is needed.

11:50:16 5 **Q.** Can you just keep going now? Thanks. Let us know if
6 there's anything you want to point out. So the --

7 **A.** What you see now is the main tube coming from the
8 pump. The pump is blue design. The main tube you see is
9 purple. The point which you see is the pressurizing of the
11:50:44 10 Groeneveld grease in the tubes to the dozers and then from
11 the dozers, which is the yellow block, yeah, bring exact
12 amount of grease because the possibility's based on the size
13 of the bearing, you can choose different doses.

14 **Q.** And why would you want different doses?

11:51:06 15 **A.** You have a bearing which is big, you need more grease
16 because this is an automatic study based on the service of
17 the bearing. You need an amount of grease to fill the
18 bearing up and small bearing, smallest, big bearing, big
19 doses.

11:51:20 20 **Q.** So we're clear, distribution block is also known as a
21 doser?

22 **A.** No, the block is the manifold, the manifold where you
23 screw the doser in.

24 **Q.** And so the doser becomes part of the manifold or
11:51:36 25 distribution?

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1 **A.** Part of the manifold block, yes.

2 **Q.** And the purpose of the doser is to?

3 **A.** To bring a certain amount, a fixed amount to the
4 lubrication point.

11:51:47 5 **Q.** And what -- what -- how do you know how much each
6 greasing point needs?

7 **A.** Experience, but you can also power plate it on trucks.
8 Normally all the billings are the same dimensions for each
9 truck, each mark of truck. And so based on experience, you
11:52:08 10 know exactly this point, this type of doser. Another point
11 needs another type of doser. But, you can calculate it.
12 When you are an expert, you can calculate the amount of
13 grease that has to be put in the bearing.

14 **Q.** And do you -- do all automated lubrication systems
11:52:23 15 have this kind of precision delivery, capability that you
16 just described with the precise amounts of grease and a
17 single line going to the specific greasing point?

18 **A.** Yeah, yeah, I think -- the single-line lubrication
19 systems, you can adjust exactly the quantity as needed. You
11:52:41 20 have also other type of lubrication systems, and there it is
21 progressive, much more difficult to adjust exact amount of
22 lubrication. But, in the end, is the same.

23 **Q.** What's the same in the end? I don't --

24 **A.** Always bringing a small amount of grease to a
11:52:58 25 lubrication point.

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1 Q. Okay. You mentioned electric or pneumatic or I don't
2 know the other word you just used, operated systems versus
3 different kind of system. If you'd just describe these for
4 the jury what the differences are so they --

11:53:16 5 A. Okay. To function this point, you need power.
6 Normally on a truck we have air pressure power, and we use
7 this power to activate the pump. So in the pump, there's a
8 piston. You open, electric volt onto the pump. The air
9 goes in the pump, pressurized. You have the ratio of the
11:53:42 10 piston from the bottom to the top, and we put the grease in
11 the system with the pressure, which you needed based on the
12 calculation of the installation.

13 Q. And so that's the pneumatic system?

14 A. Pneumatic, yeah. You have to know when you have no
11:53:56 15 air. You can use also electric pumps. So you take the
16 electricity from the back of the truck. There is a timer.
17 There is an L-toner equipment which gives signal to the pump
18 to give current to the pump, and the motor turns, and then
19 there's the lubrication system.

11:54:14 20 Q. And in the transport industry with the semi tractor
21 trailer trucks, do those have an air system, an air
22 capability, I suppose, an air source?

23 A. Can you repeat the question?

24 Q. Yeah, do the trucks in the over-the-road application
11:54:34 25 that you've described, do those have air sources to operate

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1 the lube system?

2 **A.** Yeah. Normally all trucks have an air pressure system
3 for the brakes because otherwise, they cannot brake, yeah.

4 **Q.** And now can you just -- just explain a little bit more
11:54:51 5 about this progressive line or multi-line kind of system
6 that you've alluded to so they get a context for the
7 different sorts of products available and their uses.

8 **A.** Different kinds of lubrication.

9 **Q.** No, the progressive system, how that works, as opposed
11:55:11 10 to the single line.

11 **A.** This is very complicated to explain.

12 **Q.** Okay. Can you look make it simple?

13 **A.** Okay. I will try.

14 **Q.** I don't need exact typical. Like an overview.

11:55:25 15 **A.** When you have a single-line system, you pressurize the
16 whole system. And under the dosers, all the pressure is the
17 same. So all the dosers function on the same moment. You
18 pressurize the system, the doser function, and bring -- the
19 same moment all the points bring grease to the lubrication
11:55:41 20 points where needed. You have a progressive system. It
21 goes one by one. So first you grease one. When this has
22 functioned -- when this has finished its stroke, then we
23 open a channel to another one. So you go from one to three
24 to two to three to four and so and so on.

11:56:00 25 **Q.** Are there are increased issues or different issues

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1 with the progressive system because how you described the
2 way it operates as compared to a single line?

3 **A.** I cannot understand your question.

4 **Q.** Okay. I'm sorry. Sometimes I ask a lot of questions.

11:56:14 5 Are there benefits to a single-line system that you
6 don't find in the progressive? And can you explain that a
7 little for the jury?

8 **A.** Yeah, I think so because the power of Groeneveld
9 international as we have done over the years was based on a
11:56:36 10 single line system has a lot of advantage over progressive.
11 You can very easily change a doser when this is not
12 functioning anymore. You can increase the capacity of the
13 doser just by changing and -- it's very, very simple to
14 enlarge. So you can increase lubrication points when the
11:56:55 15 system is already on the machine. So Groeneveld has
16 lubrication system always focused for all the years for
17 single-line lubrication system based on EP-0 grease.

18 **Q.** Okay.

19 **A.** And not on progressive, yeah.

11:57:10 20 **Q.** Okay. Can you describe for the jury the different
21 parts of the actual AIS EP-0 system that's Groeneveld's?

22 **A.** The main parts are the pump, the FL, which is opening
23 and closing the air inlet. You have an L unit, which is
24 normally mounted in the cabin, which gives the signal to the
11:57:48 25 pump based on time, on frequency because one installation

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1 can be greased every hour, another one every two hours,
2 depending on where it is located, where it is -- the
3 circumstances of the roads. There is a pressure switch in
4 the system, which control if the installation is becoming
11:58:10 5 pressure, yes or no, and when not, it gives a signal to the
6 driver, attention something wrong with your installation.
7 Can be broken main line, can be pump is empty. Anyway there
8 is some warning to the driver to tell there is something
9 wrong. Of course, you have the main line, you have the
11:58:30 10 manifold block, you have the doser, you have the two from
11 the dose tort lubrication points and a coupling to the mount
12 on the lubrication points.

13 **Q.** I'm going to just put this diagram up for you.

14 Sir, I'm showing you this PX-3-2. There's a diagram
11:59:13 15 on there. And if you can just tell the jury what that --
16 what that drawing shows.

17 **A.** Exactly as I told before. In the middle, you see the
18 pump, yeah. Under the pump, there is this black -- the air
19 valve, with the tank, yeah. This is the air field with the
11:59:34 20 air tank. On the left, upper left, you see the timer. This
21 is the electronic stealing device. It's connected with the
22 battery of the truck, which is left under. From the pump
23 out to the right is a main line, red main line which goes to
24 the manifold block. Yeah, this one. Then you have the
11:59:56 25 manifold block with the dosers. These are the round

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1 cylinders. And then yeah, this one. And then the troupe,
2 the secondary troupe we call it, goes to the lubrication
3 points.

4 **Q.** How many distribution blocks or manifold blocks are
12:00:14 5 there generally when you are installing these things on
6 trucks?

7 **A.** Of course, depending on the amount of lubrication
8 points, but vary from 28 to 40 points around.

9 **Q.** Wait. Hold on one second. If I can remember
12:00:33 10 approximate greasing points --

11 **A.** Depending on the greasing points which are located on
12 the truck, of course, each truck can be different. So when
13 you have more axles, you have more points.

14 **Q.** Okay.

12:00:42 15 So the number -- so the number of distribution blocks
16 is -- depends on how many actual greasing points you need to
17 feed?

18 **A.** Yes.

19 **Q.** Okay.

12:00:52 20 And so generally, you need a distribution block for
21 how many secondary lines and greasing points?

22 **A.** I cannot understand the question.

23 **Q.** Yeah, I know. How many secondary lines can come out
24 of a distribution block, second lines?

12:01:09 25 **A.** There is a lot of lubrication blocks. You have a lot

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1 of different -- you have four points, four dosers, seven,
2 nine, 12, 18, depending on what you want.

3 **Q.** Okay. I'd like to ask when you joined Groeneveld back
4 in 1978, can you describe -- first of all, tell the jury
12:01:37 5 what your job was, what you were hired to do.

6 **A.** I was a technician, and I was designing and
7 calculating tubes and installation because okay, heating
8 systems with water is a little bit the same. You have tubes
9 and radiator --

12:01:57 10 **Q.** You need to just slow way down. I'm so sorry.

11 **A.** Okay.

12 Anyway, they hire me to set up technical department
13 because at that time, Groeneveld was an importer of
14 lubrication system, and there was not enough knowledge
12:02:14 15 in-house to understand what really was doing. So they bolt
16 it and fit it, but there was no knowledge behind it. And I
17 was hired to set up technical information, study about
18 calculation, drawings, technical information for our
19 technicians and also for our clients. That was my job.

12:02:35 20 **Q.** Were there other people in your department at that
21 time?

22 **A.** No. At that time, I was alone. There was a lot of
23 technician. There were very good technicians, which are
24 going to mount, but I was the only one which had started to
12:02:50 25 set up the paperwork. Let's say the technical paperwork,

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1 yeah.

2 **Q.** Including drawings, calculations?

3 **A.** Yes.

4 **Q.** These sort of things that you described?

12:02:58 5 **A.** Yeah.

6 **Q.** And about how long did you fulfill that role of the --
7 I guess basically studying the existing pump system that
8 Groeneveld was selling at that time?

9 **A.** It's still my job. Okay. I became -- later on I
12:03:20 10 became organizer of production, development, and I'm now the
11 managing director of the Groeneveld plant for production and
12 development all over the world.

13 **Q.** And what did you find when you did your technical work
14 in connection with the Samuel Moore TSI pump that I believe
12:03:43 15 was PX-87? What did you find?

16 **A.** Of course I get information from the technicians, from
17 the management at that time, and there were a lot of
18 technical problems. The contact with the designers for the
19 United States was probably not so good, and they asked me to
12:04:04 20 start thinking about our own lubrication system.

21 **Q.** When you say your own lubrication system?

22 **A.** For Groeneveld, not my own, for Groeneveld.

23 **Q.** Meaning their own product as opposed to importing it
24 and buying somebody else's?

12:04:20 25 **A.** Yes.

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1 Q. And selling somebody else's?

2 A. Yeah.

3 Q. You did say you found -- there were a number of
4 problems with the product that Groeneveld had been handling,
12:04:32 5 that TSI pump that you -- can you just tell the jury what
6 the issues were?

7 A. Okay.

8 You can imagine that the European market, the truck
9 market is a little bit different than the United States
12:04:44 10 market. And this lubrication system was really designed for
11 American markets. And the trucks in Europe are much
12 smaller, more compact, and we found all kinds of technical
13 problems to fix the installation on the truck. We missed --
14 there was not enough output of the pump. We wanted to
12:05:09 15 increase the quality of the materials, on the corrosion,
16 higher pressure, better timer. At that time, electronic was
17 a big problem because we were 24-fold, and it was 12-fold
18 systems. So we needed to change something to go further in
19 the market.

12:05:29 20 Q. And what is an output problem?

21 A. Output is the volume of the pumps which do the
22 pressurizing of the system.

23 Q. Okay. And so you needed more pressure?

24 A. Yeah, we wanted to have more output and more pressure.

12:05:43 25 Q. Why?

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1 **A.** So you can have longer -- longer main lines, and you
2 can have more dozers because some of the dosers. The total
3 sum of the dosers gives an output, and this you need to
4 pressurize in the system.

12:06:04 5 **Q.** And you mentioned the quality of the materials in the
6 original product. And what were the issues or concerns
7 there?

8 **A.** Okay. Europe is especially very salt, let's say,
9 country. We are directly on the seaside. So there was a
12:06:25 10 lot of corrosion problem. In the wintertime a lot of salt
11 on the road.

12 **Q.** We're from Cleveland. We know what that's like so.

13 **A.** Yeah, okay. But, not everyone have a problem here,
14 but Europe is always so. We had a lot of problems with
12:06:40 15 quality and corrosion. And salt just presses us to start
16 something for ourselves.

17 **Q.** And who was involved in that -- let me -- that process
18 of starting something for yourself for Groeneveld?

19 **A.** At that time, of course, I was not alone. I was --
12:07:05 20 okay. I was alone setting up the paperwork, but we had a
21 technical director. We had a technical supervisor at that
22 time, and Mr. Groeneveld, of course, he was also very
23 clever.

24 **Q.** Which Groeneveld?

12:07:18 25 **A.** Art Groeneveld.

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1 Q. Art?

2 A. Yeah, Art Groeneveld.

3 Q. So that sounds like maybe four of you involved in that
4 process?

12:07:27 5 A. On the higher level, we were at that time 50 people,
6 50 or 60 people. And I think the four of them were most
7 important based on the technical side.

8 Q. How many -- how many -- you told us who the four
9 higher level people were involved in this -- in this setting
10 up an engineering, this new air system. How many people
11 under you guys were there working on that project in the
12 beginning?

13 A. No. Only three people, only three people.

14 Q. Which three were those? You and who?

12:08:02 15 A. It was the -- it was the technical director and the
16 technical supervisor and me.

17 Q. Do you remember the names of these?

18 A. Yes, of course. The technical supervisor was Bert
19 Bore.

12:08:14 20 Q. Bert Bore? Got it.

21 A. Bert Bore. And the technical director was Audi Stert.

22 Q. Did you get that, ma'am, Court Reporter? Can you
23 spell it for us?

24 A. S-T-E-R-T, Stert.

12:08:35 25 Q. So what did the -- and how many people -- how long was

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1 it just the three of you working on that project?

2 **A.** Which project?

3 **Q.** I guess in the beginning when Groeneveld decides hey,
4 we're going to make our own ALS product and not keep buying
12:08:53 5 the TSI Samuel Moore one?

6 **A.** We started -- because Groeneveld was not producing by
7 himself. So we start designing and are contacting, start
8 contacting manufacturers to produce to make parts for us.

9 **Q.** And did any people who were Groeneveld employees join
12:09:12 10 the team to work on that first Groeneveld pump?

11 **A.** Okay. Can you repeat, please?

12 **Q.** Did anybody else at Groeneveld join you guys on the
13 team?

14 **A.** Yes, later on, of course, because we were pressed to
12:09:27 15 go to Italy for this -- to finalize the product. We have
16 decided to produce it in Italy, and then I contact Italian
17 producers, some freelancers to help me to design the pump
18 and installation, of course.

19 **Q.** About when did Groeneveld have its first ALS pump that
12:09:53 20 you guys were producing?

21 **A.** I think the first prototypes and the first lots we
22 make in '82, and we went on the market beginning '83,
23 something like that.

24 **Q.** Was that the first one? Was that the --

12:10:07 25 **A.** No, this was the Groeneveld, the Groeneveld.

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1 Q. You know what? Can you describe the Sempress products
2 that you had?

3 A. Yeah, in '79, we started first with the Dutch company,
4 making drawings and possibilities to start lubrication
12:10:23 5 system in Holland. But when the drawings were finished and
6 made some prototypes, the price was so high, it was not
7 sellable for us. And we stopped this project and this
8 knowledge, and we -- of course, what we have done, I went to
9 Italy, and we started there over again in another form so --
12:10:44 10 in another technology. And in -- it was at that time a low
11 cost country, let's say in this way.

12 Q. Okay.

13 So am I correct when I refer to that first product,
14 you explored as a Sempress product?

12:11:00 15 A. It was -- the name of the company was Sempress, yeah.

16 Q. That you were working with?

17 A. We worked for -- we tried to work for one year and
18 then it don't work out, didn't work out.

19 Q. Okay. And who from Groeneveld was on the team in
12:11:18 20 connection with the Sempress pump in this '79, 1980?

21 A. Mr. Bore, Mr. Stert, and me.

22 Q. And what was your particular role on that project?

23 A. My role was more to organize the technical function of
24 the lubrication system, what we needed really. So the
12:11:42 25 calculation of the pressure, the grease output, the

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1 reservoir size, the material, and so on. Mr. Stert was more
2 for the financial part and the organizing of the contract,
3 and Mr. Bore was the knowledge at that time, based on the
4 knowledge on the road. So let's say the technical knowledge
12:12:02 5 from the field.

6 **Q.** Oh, I see. And how did you go about creating -- how
7 did you go about doing your work on that project? What did
8 you do?

9 **A.** I spoke with the designers to create a pump as I
12:12:22 10 wanted it.

11 **Q.** And I believe you said the Groeneveld made a decision
12 to not go with that product?

13 **A.** Yeah, yeah.

14 **Q.** Can you explain -- first tell us about when that
12:12:37 15 happened, when that decision was made?

16 **A.** It was in '90, '80, somewhere in 1980 in this period.

17 **Q.** And at some point, Groeneveld embarked on a new ALS
18 project?

19 **A.** Of course. You can imagine we started this project,
12:12:55 20 and we were a little bit fighting with the producer of the
21 United States lubrication system because they didn't want to
22 do what we wanted.

23 **Q.** What does that mean, they?

24 **A.** Because we wanted to chase on the system. We wanted
12:13:07 25 to have more reservoir, high pressure, and there was no

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1 response, no response.

2 Q. So what did you do?

3 A. We decided to start and cannot finish it. We have to
4 go on so when you say A, you have to say also B.

12:13:22 5 Q. Okay. So tell us B. Now, what's happened at B?

6 A. Okay. B, well the moment we have to understand that
7 with the Dutch company, it was not possible to make a good
8 lubrication system. Also based on Lubecore, based on high
9 technology and based on a good price, we have decided to go
10 to Italy.

12:13:40

11 THE COURT: Let me interrupt you here. Is
12 this a good time?

13 MS. MICHELSON: It is, your Honor.

14 THE COURT: Project B at 1:15?

12:13:48 15 MS. MICHELSON: 1:15? Thank you.

16 THE COURT: All right, folks. That will
17 conclude. Now you heard some testimony, right? You have to
18 keep an open mind and not form or express any opinion. You
19 remember the rest of the admonition. If you can meet,
20 Mr. Yarger, at what time? On L-1. Can you be responsible
21 for that for us? Where are we supposed to meet?

12:14:00

22 A JUROR: L-1.

23 THE COURT: L-1, right. And that's

24 downstairs. Don't need anybody wandering the hall up here
25 and wondering where the jurors are. You meet on L-1 at 1:15

12:14:12

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1 and Jeanie will come down to get you, bring you up and then
2 we will resume this afternoon.

3 So refresh yourself. Have a good lunch and see you on
4 L-1. Where? Okay. 1:15. I had to pick on somebody.
5 (Thereupon, a luncheon recess was had.)
13:38:11 THURSDAY SESSION, OCTOBER 13, 2011, AT 1:38 P.M.

6 THE COURT: Okay, Debbie.

7 MS. MICHELSON: Thanks. Thank you, your
8 Honor.

9 BY MS. MICHELSON:

13:41:53 10 Q. Did you have a good lunch?

11 A. Yeah, yeah. Yeah, I did get something. Yeah.

12 Q. We were -- when we broke, we were talking about the
13 Groeneveld's next approach in designing its own automatic
14 lubrication system. Right before we get there, I'm going to
15 just show you this photograph and explain to the jury where
16 this might fit in. Exhibit 47-1. Do you see that?

17 A. Yes.

18 Q. And can you just tell the jury what that is?

19 A. That's a single-line lubrication system of Sterk.

13:42:43 20 Q. Of who?

21 A. Of Sterk Lubrication System.

22 Q. And does this pump better form a -- perform in a
23 similar way that the Groeneveld's single-line EP-0 pump
24 operates?

13:42:58 25 A. Yes, yes.

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1 Q. Can you explain to the jury how this one does that and
2 looks so different than the Groeneveld pump that's the
3 subject of our case here?

13:43:12

4 A. Okay. The concept is different, yeah. You see that
5 it's a steel bottom with a bell group in the middle.
6 There's a side, and on top, the reservoir where the grease
7 is inside, and in the middle base, there is a machine part
8 of metal where the belt's inside to still the grease in a
9 good way, so return valve, pressure valves, vent valves,
10 some mechanical parts inside.

13:43:39

11 Q. And, you know, can you -- can you explain to the jury
12 really the inside parts of a pump in an ALS system that make
13 it work? And I'm going to put up here what we've marked as
14 PX Exhibit 19. And this might assist you. Know what this
15 is?

13:44:07

16 A. This is our Groeneveld pump.

17 Q. The EP-0?

18 A. Yes, single-line Groeneveld pump, yes.

19 Q. And the housing is not all there. I see that base,
20 that block base. Can you describe for the jury what --

13:44:18

21 A. This is demonstration pump, which we use for sales
22 people to go around to show the pump technical people, to
23 show the pump how it's functioning. You have the house, cut
24 it away. The first part. You see inside the piston. The
25 wide part in the bottom is the chromatic piston, which

13:44:35

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1 pressurize the grease. And you see the vertical one is a
2 return valve where the grease is coming out, and horizontal
3 is the vent valve for the return grease from the insulation.
4 So we pressurized the insulation. And then when the air is
13:44:56 5 gone, the piston falls down and the grease come back from
6 the main chute to restore the dosers for the next -- for the
7 next shot.

8 **Q.** Why do you have to cut away part of the base to show
9 how the pump operates and functions?

13:45:18 10 **A.** You cannot look inside.

11 **Q.** All the parts have a -- contribute to its functioning
12 on the inside of the pump or --

13 **A.** Yeah. For the function of the pump, all the parts are
14 inside, yeah.

13:45:34 15 **Q.** Are there any parts on the outside of the pump that
16 move the grease through the system, for instance?

17 **A.** No, no. The only part on the outside is the fill
18 coupling to fill the reservoir.

19 **Q.** And can you -- I don't know how we do this with the
13:45:53 20 witness pointing that out for the jury. How do we --

21 **A.** The one on the left with the black cap, you see
22 something blinking? Yep, there, yeah. Does his Madden
23 thing work on the screen? Can you touch the screen to see
24 if it works? You might be able to do it.

13:46:19 25 MS. MICHELSON: Thank you.

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1 Q. So the mechanism that actually creates the pressure in
2 the movement of the grease, can you just explain to the jury
3 how that works?

4 A. Okay. The wide part in the bottom is -- the piston is
13:46:44 5 the air piston. This moves up -- moves up behind this part,
6 which you cannot see. There is a cylinder with a bell ring
7 and a pressurized part which presses the grease on top, and
8 you cannot see it because it's behind here. And then it
9 comes forward and goes -- yeah, goes out. You see this
13:47:08 10 line -- yeah, there, goes out.

11 MS. MICHELSON: Showing us how to clear all
12 these arrows that we created.

13 THE WITNESS: Yeah, it's difficult to --

14 Q. We got it. Okay. You can touch it and draw on it as
13:47:38 15 you describe it, Mr. Van der Hulst. If you do that and if I
16 do it.

17 A. Yeah? Okay. I point with my finger is the pneumatic
18 piston. When the air is coming in from the bottom, the
19 piston goes up. Behind this is a cylinder. It's
13:47:59 20 pressurizing the grease. In the top of the pump, there is a
21 warm wafer. We call it a flapper valve. And then the
22 grease is coming forward via the channel. You see the
23 pluck -- yeah, there. Goes via one-way valve out of the
24 pump. You see the T-piece here on the side, and there is
13:48:20 25 the main line to the insulation.

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1 Q. The main line that's the hose that connects it to?

2 A. The manifold blocks, yes.

3 Q. When -- so after Groeneveld decided it wasn't going to
4 go with that Sempress pump, can you explain to the jury how
13:48:49 5 y'all went about creating the EP-0 product that is the
6 subject of our case? Describe it for me.

7 A. Yeah, by coincidence, we have contact with an Italian
8 man who was able to bring me -- bring us, Groeneveld, in
9 contact with producers, designers, which I contacted at that
13:49:12 10 time personally, and we start speaking about the possibility
11 to produce something, based on the drawings which you had
12 already made and on the experience we had with the
13 lubrication system, which we showed at that time. So we
14 started designing and contact with producers with aluminum
13:49:33 15 die casters, turn part machines, and very slowly we get an
16 idea how the pump has to be and based the pump, which you
17 have there, it was changed during the years, of course, but
18 at that time, in 1981, '82, it was born in the way it is
19 now.

13:49:50 20 Q. And when did you -- when did Groeneveld start the
21 process of engineering this pump?

22 A. I think -- okay. We started in '81, '81, somewhere in
23 '81.

24 Q. And who was on that team, who was involved in
13:50:09 25 designing and engineering this pump? Who at Groeneveld?

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1 **A.** From Groeneveld was only me, only me and Mr. Bert
2 Bore. He was there also, but only me, main part me, only
3 me.

4 **Q.** Did you have a team or a department of people helping
5 you?
13:50:26

6 **A.** No. At that time, we worked in Italy with some
7 freelancers, manufacturers, and we bring them together. I
8 brought them together with our Italian, let's say, k
9 intermediate, yeah, and very slowly, we created the pump
10 very slowly. Took us one and a half years. So it was not
13:50:43 11 from one day to another. Of course, yeah.

12 **Q.** Of course.

13 So when you say we, we did this, are you talking about
14 you arranged all these things?

15 **A.** No, of course not only me because there's too much
16 technology inside that -- and I had at that time not enough
17 experience. I was a clever guy but not enough experience,
18 and -- but I -- I had the strength to force the people to do
19 it as I wanted. And we arrived, we arrived.

20 **Q.** Were there technical people at Groeneveld involved in
13:51:12 21 the engineering of the pump in this 1981?

22 **A.** In the beginning, I think almost Mr. Bert Moore was
23 involved because he was my boss. And okay, it was a broad.
24 I probably was the only one who spoke English at that time.
13:51:36 25 So they throw me before the lions, let's put it this way.

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1 Q. Italian lions?

2 A. Yeah.

3 Q. So what did you do, like -- can you just go through
4 the engineering design process, sort of step by step, so
13:51:51 5 that the jury has an understanding of, you know, what you
6 did to make this thing?

7 A. At that time, I met Mr. Calaborna Chiana, who was also
8 later on my partner. He was my technical director later on
9 until '98, '99, something like that. And he was very clever
13:52:12 10 guy. And together we started designing the pump as it is,
11 the bars because there's a lot of parts inside, I think 55
12 parts. And you have to sign them one by one before you can
13 create something. And to try, of course, make prototypes,
14 samples, and over in the programs which you have not
13:52:34 15 imagined, of course, you think about 30 years ago,
16 everything has to be designed by paper with ink and pencil,
17 now today computer and so on, but not, of course, and then
18 we started to make tooling, and together with the team of
19 people over there which I still know, we make the first
13:52:59 20 prototypes, and we send them for fuel test and lubrication
21 system and we start, we continue to do that.

22 Q. So about how long between the drawing stage and you
23 having a prototype that you could submit for testing?

24 A. I think it was one and a half, two years, I think,
13:53:21 25 yeah.

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1 Q. And then can you describe for the jury what type of
2 field testing and other kinds of testing were done on the
3 pump on the prototypes?

4 A. Okay. In Holland, we have, of course, a small
13:53:36 5 laboratory where we can do some tests with pressure and so
6 on, and we try my clients. So we ask clients can you try
7 because Groeneveld was a very strong commercial company with
8 good relation with all the clients, very known company, and
9 it was very easy to find clients, say okay, we want to try
13:53:57 10 it and we try it on trucks to see it for functioning. And
11 so slowly all the weak points came to us, and to improve, to
12 improve.

13 Q. Were there various stages of prototypes before you
14 decided on going with one particular -- with the final
13:54:23 15 product, I suppose?

16 A. No, no. The body was -- the main part of the pump was
17 at that time very, very complicated because we went really
18 with technology from zero to 100 with the aluminum body for
19 one piece, and this has to be in one swoop correct. So we
13:54:45 20 make the drawing, we had a very good producer for die
21 casting at that time, and we were sure that this was the
22 only possibility to make a pump which looks completely
23 different than the other pumps at that time which were
24 available because a lot of pumps were made with mechanical
13:55:04 25 parts with bolts and screws and piece of steel, so on, and

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1 plastic. We wanted to make it different. One piece worked
2 and finished.

3 Q. Why did you want to make your pump different looking
4 than everybody else's that was on the market?

13:55:22 5 A. Yeah. It's just a challenge. It's a challenge of
6 designer and each -- let's say you want to make something
7 different than everybody else. This is in -- yeah. You
8 want to do that. This is, I think everybody you want to do
9 something different than somebody else.

13:55:39 10 So we want to give it a groove look. So this has to
11 be our pump for many, many years and has to be good and
12 nice.

13 Q. And was the Groeneveld EP-0 pump different looking
14 than everybody else's on the market?

13:55:59 15 A. At that time, yes. Yes, of course.

16 Q. And what about over the last 30 years?

17 A. We had a lot of success with this pump. Groeneveld
18 went all over the world with this pump. We created a lot of
19 distributors everywhere, and we were very successful with
13:56:19 20 this pneumatic system, and we still are.

21 Q. Over the last 30 years, did anybody else's ALS pump
22 look like Groeneveld's, other than what we have here on the
23 table now?

24 MR. ANASTOS: Objection.

13:56:38 25 THE COURT: Overruled.

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1 THE WITNESS: No, no.

2 Q. Did new products come on the market, ALS pumps over
3 the last 30 years?

4 A. Yes, there is a lot of produce of lubrication pumps,
13:56:50 5 lubrication system, Japanese, Chinese, also Europe,
6 different producers, smaller ones, but they all have their
7 own systems in a way, and they look all different, all
8 different.

9 Q. A gentleman has been referred to during the case, and
13:57:13 10 it'll probably come up later as well, Martin Vermeulen. Do
11 you know who that man is?

12 A. Yes, of course I know him, yeah.

13 Q. Can you tell the jury who he is and what role, if any,
14 he had in designing or engineering the Groeneveld EP-0
13:57:30 15 single-line auto lube system that our case is about?

16 A. None, none.

17 He came, as I remember, in '70, '86, '87, something
18 around there. He was technical support, give technical
19 support to sales people. He was at that time in the lab,
13:57:53 20 but okay, there was much later, it was five, six years
21 later, so no influence, nothing.

22 Q. When you say later, much later?

23 A. Because he bought the pump on the market in '82, '83.
24 We make it in '81, the prototypes, and as I remember, well
13:58:13 25 entering into Groeneveld in '86 or '87, something like that.

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1 Q. And do you know how long about he remained with
2 Groeneveld?

3 A. No, I don't know because I went to Italy in '86,
4 fixed, because we created at that time Groeneveld Italy as a
13:58:32 5 production center and research because before that, I did, I
6 did with the freelancer but decided in '86 to commit our own
7 Groeneveld in Italy and I went there for the first three
8 years alone and later on my wife and my son came to Italy.
9 And from '89, I live in Italy, fixed. So he was there in --
13:58:55 10 I had no contact with him.

11 Q. What was Mr. Vermeulen's job at Groeneveld during that
12 period of time you described?

13 A. I know that he was technical support. He gives
14 technical support to sales people and, of course, he was
13:59:15 15 involved in all kinds of problems, which were coming from
16 the market because you create in the end together, it is not
17 that I did everything alone. You create everything
18 together, technicians who are installing installation, give
19 information about notifications, commercial people said we
13:59:33 20 found this, and my clientele that, and together, you try to
21 improve. And, of course, many of us at that time in
22 technical support. So he probably will get information to
23 improve something, but I have never had any contact directly
24 with Martin Vermeulen about technical improvements, and he
13:59:55 25 was never in Italy all his life. So I don't know.

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1 Q. Who did the drawings, the initial drawings from which
2 the Groeneveld EP-0 pump was eventually produced?

3 A. Let's say the base of the -- of the design was done by
4 Calaborna Chiana and me, but he was the real designer. I
14:00:22 5 was more the pointer, so do it in this way, that way; I
6 think this is better, and that it is better. And he was
7 capable to design. Some parts were designed by
8 manufacturers, and that's all.

9 Q. And who led that effort from -- I guess from thinking
14:00:47 10 it to making it?

11 A. Was Calaborna Chiana and me together. We pushed for
12 the pump in the end and a half at the time he was organizer
13 to contact the producers. He made the contracts with the
14 producers to make each individual piece because there's a
14:01:09 15 lot of technology inside, of course. You can imagine.

16 Q. So how did you -- how -- I just like you to tell the
17 jury how you knew how to make, design engineer a pump. How
18 you know how to do that, or how do you know how to do it
19 back, I guess, in the 1980s?

14:01:34 20 A. This is technology. You -- when you give me a vacuum
21 cleaner, tomorrow, maybe the day after, I can make a vacuum
22 cleaner for myself. This is you know it or you don't know
23 it. It's your business. It's your profession. So you
24 understand how you have to push the grease from one side to
14:01:53 25 another. You know how a vent valve is functioning, how a

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1 valve is functioning. You know. You can calculate
2 pressure, calculate pressure outcome and everything, and
3 then you can -- you can do something. You can make
4 something.

14:02:05 5 **Q.** And since the development of this EP-0 pump, have you
6 been involved in the engineering or design of additional ALS
7 products for Groeneveld.

8 **A.** Can you repeat the question, please?

9 **Q.** Have you been involved in the design of more ALS
14:02:25 10 products than just this EP-0 pump?

11 **A.** Yes, of course, later on I became the manager of
12 development and production for the Groeneveld, which I still
13 have and have a big factory in Italy where we produce all
14 installation. Not only that but have several lines of
14:02:42 15 different pumps, single line, double line, three line, the
16 progressive, we do zero grease, two grease. You made speed
17 limited board computer, cameras, whatever you can imagine,
18 what has to do with trucks. We make inside and we develop
19 inside.

14:03:00 20 **Q.** I have a question for you. If -- can you describe --
21 can you tell us, explain what parameters are and how that
22 fits in with the design or engineering of an industrial
23 product like this?

24 **A.** The parameter is a -- is a number of something what
14:03:20 25 you want to get out of it. For instance, when you say this

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1 pump has four to six out, it's a parameter. When I have --
2 when I know that the air pressure is eight bar, so I have to
3 calculate everything with eight bar, air pressure, this is a
4 parameter, and when I want to know the output of the
14:03:41 5 pressure. So on the high pressure, I know that it's a
6 parameter. So I want eight bar in, 80 bar out, I have a
7 parameter of 80 bar, and I have the piston of ten, you know.

8 **Q.** So let me ask you. If the -- if you're independently
9 or when you independently -- or let me put it -- let me
14:04:04 10 rephrase this.

11 When you created this pump, when you started on it,
12 and you started out with certain parameters that you
13 described, such as reservoir size as you've indicated and
14 output numbers and pressure requirements or pressure
14:04:25 15 requirements, could you -- could you make a working
16 prototype in two and a half months, just having those
17 parameters?

18 **A.** You have nothing. And to give you only parameters,
19 no, I'm not capable. No, I'm not capable.

14:04:41 20 **Q.** Are other people capable of making something from just
21 parameters like an EP-0 single-line pump in that period of
22 time?

23 MR. ANASTOS: Objection.

24 THE COURT: Overruled.

14:04:53 25 THE WITNESS: At that time, it was not

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1 possible because there were no cut computers available in
2 small companies. False prototyping was not available at
3 that time. Everybody has to design by hand. Machines,
4 three-dimensional, working machines were not available at
14:05:11 5 that time. So only making tooling took months. And at that
6 time, it was absolutely impossible.

7 Q. Did --

8 A. Everything is a little bit quicker today. Now days
9 everything is quicker.

14:05:24 10 Q. I want to make sure I'm clear that I'm talking about
11 having a working prototype, something that you can put on a
12 system and test and use in the field.

13 MR. ANASTOS: Objection.

14 THE COURT: Overruled.

14:05:37 15 Q. Can you get one?

16 THE WITNESS: You can say -- okay. What
17 normally we do, okay, you try to make something, what can
18 imitate the function which you want to have in the end. So
19 it's possible to make a block of steel or a block of
14:05:54 20 aluminum, make the holes where you think the holes has to
21 be, and try exactly the same what you go get in the end by
22 the shape, in the shape, yeah. And then you try the
23 functioning of the -- of the pressure, of the output, of the
24 valves inside and so on and so on, and you can put them in
14:06:19 25 the end where you want. But, the logic has to be, of

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1 course, the same as the output of the pump. And this is
2 what you call a functional prototype, yeah. And the
3 prototype which you go in the field has to be more
4 realistic, of course. Otherwise, yeah, it's useless to go
14:06:36 5 with something which is not exactly as you want to sell on
6 the field for test. Otherwise you think everything is
7 perfect and then when you're finished with the product, it
8 may be not good. So when you go with prototypes, there's
9 really prototypes. So functional prototypes based on the --
14:06:54 10 on the look as it has to be in the end. And this is the
11 second phase. So we have first the phrase, visibility
12 study, visibility prototype, final designs, and then final
13 prototype, look alike, and then you go with the -- with some
14 quantity of prototypes. You go on the field. You put on
14:07:13 15 the car, test it, laboratory temperature test, pressure
16 test, corrosion test, IP test, EMC test, a lot of tests, and
17 then you say okay, I'm ready. I try.

18 **Q.** So between the time you have the parameters and
19 between the time you have a prototype that you want to test
14:07:31 20 on the field -- in the field, can you do that even today
21 with -- within two and a half months?

22 **A.** Depending on what you want to make, of course.

23 **Q.** Well, what if you want to make an automatic
24 lubrication system, EP-0 single-line pump from scratch?

14:07:48 25 **A.** No, no. We absolutely -- we are not able. We are not

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1 able.

2 **Q.** When you say we are not able?

3 **A.** Groeneveld is not able to do that.

4 **Q.** Are others in the industry able to do such a thing?

14:07:59 5 MR. ANASTOS: Objection.

6 THE COURT: Overruled.

7 THE WITNESS: I don't know.

8 **Q.** And what about having a product that from, you know,
9 the first drawing is ready to go into production within four
14:08:11 10 months from -- is that realistic possibility?

11 **A.** When you have nothing, you have only parameters. You
12 have no idea what you want to make. So let's say you -- you
13 know that you want to make lubrication system but you
14 have -- because you cannot decide everything by yourself, as
14:08:30 15 a team, you decide how to have the pump to look like because
16 commercial people have a finger in the pot, what is it, also
17 their needs, yeah. In the interest of combination of a
18 group of people who want to create something. You cannot do
19 it alone. And this all -- this information together takes a
14:08:55 20 very long time but one wants, one wants horizontal, another
21 one -- there's a lot of information coming. And so four
22 months is impossible. It's impossible.

23 **Q.** And what about how -- to start from nothing as you've
24 said?

14:09:11 25 **A.** Of course, you know, this is -- I have a phone. And I

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1 want just to change something in the pump. I want to change
2 the capacity of the pump for instance or the pressure of the
3 color or the reservoir, this is possible, but from nothing,
4 make a pump only with some parameters is impossible.

14:09:29

5 **Q.** And does that hold true today even when we have the
6 computer image capabilities that you've referenced?

7 **A.** Nowadays you can do it much quicker than we had, of
8 course, than we did it in the past, yes.

9 **Q.** Can you do it in four months?

14:09:42

10 **A.** I would say it's not possible, no.

11 **Q.** Could Martin Vermeulen do it in four months based on
12 your knowledge of his experience when he worked at
13 Groeneveld?

14 **MR. ANASTOS:** Objection.

14:10:05

15 **THE COURT:** Overruled.

16 **THE WITNESS:** No, of course not. He has no
17 knowledge about it.

18 **Q.** Well, you say of course not. Can you explain can you
19 explain why you seem so sure of such a thing?

14:10:16

20 **A.** Because you need to work even a few years and work
21 with this kind of articles in there. You have to have
22 experience from the field, and when you are alone, you can
23 do nothing. You need to have a lot of people around you.
24 You have to have contact with people, producers
14:10:37 25 manufacturers, all these people who can help you to create

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1 it. If when you don't have that, you can never make it,
2 never make it.

3 **Q.** A little bit earlier, you mentioned something about
4 the commercial people, that there are commercial issues that
14:10:50 5 become involved in the creation of a product, such as the
6 EP-0 pump, can you explain for us a little what kind of
7 involvement such people have?

8 **A.** Normally in Groeneveld, there's commercial people who
9 decide what we are going to make. So they have the most
14:11:09 10 power in the group. We have -- we have monthly development
11 meetings with commercial people inside, and they -- they
12 give us information of what the market wants. So they
13 listen to the clients, and then they learn, they read, they
14 know what the competition is doing, and they tell we need
14:11:33 15 this, we need that, and then it comes to me.

16 **Q.** Did Groeneveld have to make its pump look this way on
17 the outside because of the way it works on the inside?

18 **A.** No, no, of course not. No, no.

19 **Q.** Well, again, you say of course not --

14:11:47 20 **A.** You can't -- the pump wasn't made in this way but you
21 can put the valves inside. You can make out of the pistons
22 horizontal or vertical, make it horizontal. You can change
23 the shape of the reservoir round you can make also
24 reservoirs which are square. So you can change very easily
14:12:09 25 the same pump functioning the same way.

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1 Q. Do you have to use aluminum for a pump's base, an ALS
2 pump base, or can you use other materials?

3 A. You can, you can use also steel. There is pressure
4 inside. The question is there's pressure inside. High
14:12:39 5 pressure inside, and the most usual material to make a shape
6 because aluminum, you can pull, press, you can make it
7 liquid, heat it up, 800,000 degrees, become liquid. You
8 have a tooling, a steel tooling, and you can pull it or you
9 can press it in, take all the die cast, and then you can
14:13:05 10 take one piece out of the tool, and then you have to work
11 it. The working is -- you have one piece that's very nice,
12 yeah, but the aluminum is porous. There are small holes
13 inside, not really close. So you have to do some operations
14 to close it, to close the channels inside. And we did, of
14:13:33 15 course, and -- but you can make it different, of course.
16 You can say okay reservoir, I make -- you can make all in
17 plastic, only inside you can make from aluminum. You can
18 make the cylinder where the piston is inside, steel bushing
19 that you screw in, and you see it. There are -- the Sterk
14:13:52 20 pump is different and in the end --

21 Q. You said which pump?

22 A. The Sterk pump is different, but it do -- it do the
23 same.

24 Q. Okay.

14:14:05 25 THE COURT: You want that on?

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1 Q. Exhibit 47 is that the Sterk pump you're referencing?

2 A. Yes.

3 Q. And you said -- you said it's different, it's the
4 same. I got a little lost. Can you tell me what you just
14:14:20 5 said?

6 A. Okay. You see the reservoir on top? This is a
7 reservoir on top, yeah. That is the container of the
8 agrees. The reservoir you can make in several dimensions,
9 yeah. You can make them in two kilos, three. We're
14:14:34 10 speaking kilos, okay. This one which you see on the table
11 are six kilo grease container, and this has to do with the
12 time you want to overcome for the next -- for the next
13 filling because the truck is on the way, can be away for
14 weeks or may be months or whatever. And so you don't have
14:14:58 15 to fill up the reservoir every time you come in.

16 Q. So the sizes of reservoir of ALS pumps vary then?

17 A. Yes, vary a lot, yeah.

18 Q. And then what is this part called?

19 A. This is a -- the cylinder part, where we create the
14:15:15 20 pressure. Inside there is a piston with two pistons in the
21 end, you have the pneumatic and the grease piston, which are
22 together, and you press the piston up, and you create
23 pressure.

24 Q. And does this pump have a base? Sorry. What is the
14:15:37 25 material used to make this pump's base, meaning 47?

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1 **A.** When I look to it, I see that the bottom is steel, is
2 forced steel plate. The middle part is -- I think is
3 aluminum, aluminum block. Middle part are the channels in
4 the holes inside, yeah.

14:16:02 5 The bottom of the reservoir is -- I think it's
6 stainless steel plate when I look to the color in this way.
7 I cannot see it exactly, but I think it's steel. Then you
8 have the reservoir is probably metallic sheet nylon, and
9 then the top is a steel plate. I think. Yeah.

14:16:25 10 **Q.** You said before when you were talking about the
11 Groeneveld base, the aluminum pump, you said one piece is
12 very nice to have, one piece is very nice. Can you explain
13 what you mean by that?

14 **A.** Yeah, at that time, a lot of pumps were created from
14:16:46 15 parts which are like this pump, in my opinion, a terrible
16 pump but all in this way. They mount together with screws
17 and bolts. And because the machine technology to machine
18 parts at that time was not so available, and I was lucky
19 because Italy, especially in Northern Italy is the mecca of
14:17:14 20 technology. We make the Veratti and other nice things. So
21 we like the Germans, so far ahead of technology. And we
22 found their machines to work, to possibility to work with
23 the three or four excellent machines, the body, and there
24 was a reason why we make it in that way.

14:17:35 25 **Q.** You said that the Echo or the Sterk pump we were just

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1 looking at is a terrible pump. What's terrible about it?

2 **A.** Yeah, only the look. I have nothing to say about the
3 quality because probably is a perfect pump, and so it's only
4 the look which I mention, yeah.

14:18:03 5 **Q.** Was that -- was that important to you or a factor in
6 the way you chose to engineer the Groeneveld pump way back
7 in the way it looked, and not looking terrible and all those
8 things you just described?

9 MR. ANASTOS: Objection; leading.

14:18:20 10 THE COURT: Overruled.

11 THE WITNESS: Yeah, I think so because the
12 Groeneveld was -- at that time, a very young company with
13 young managers. Mr. Groeneveld, especially, he had very
14 good choice. He like nice things. We had a nice office,
14:18:37 15 nice cost, nice people. So we were different than the
16 really old mechanical people. Let's say it in this way. We
17 were a sales company, we did a lot of promotion, and there's
18 a reason why we wanted to do something else, and --

19 **Q.** Mr. Hulst, could you today make your Groeneveld EP-0
14:19:10 20 pump look different, and it would still work in your system?

21 **A.** We make our pumps. We make electric pump which is
22 completely different. Also EP-0, make a couple pump with
23 the cartridge created just for the United States market many
24 years ago completely different. So we have three lines of
14:19:29 25 EP-0 pumps, which are completely different than their pump.

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1 Q. What about this pump, this single-line EP-0 pump
2 that's pneumatic and used in the transport industry? Could
3 you today make this pump look different and it would still
4 work and function as part of the ALS?

14:19:51 5 A. Yes, of course.

6 Q. Well, explain how?

7 A. Around the table where you want to have it the same,
8 you start designing and you make it different.

9 Q. How hard?

14:20:04 10 A. It's not so difficult, so difficult. To produce it
11 later on, this is another story, but you can make -- you can
12 imagine everything. As I told this person is a vertical
13 piston. Lincoln, for instance, the United States producer
14 has a lot of horizontal pieces. And you can make the piston
14:20:21 15 also horizontal because the grease is not coming in the
16 chamber by gravity or whatever. When the piston goes back,
17 it gives the grease in the piston, and you can make it in
18 this way. So if reservoir, the piston, poof. It's the
19 same.

14:20:37 20 Q. Does gravity have an impact on the way your pump
21 works?

22 A. No, no nothing.

23 Q. Explain this to the jury.

24 A. You can -- okay. These kind of pumps function in a
14:20:59 25 lot of different circumstances. As you know, outside, it's

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1 not always nice 20 degrees. We have also minus 20, minus
2 50, whatever, minus a lot of temperature, and you go also up
3 in the temperature 30, 40 degrees sometimes in Africa. So
4 okay. When you have high temperature, it's not a problem.
14:21:21 5 But, you go in low temperature, the grease becomes very
6 stiff, very stiff. And together then in the chamber, you
7 need to have two forces; vacuum force because it's the only
8 force you have vacuum, and gravity. But the vacuum, gravity
9 will do nothing because it's not heavy enough, but the
14:21:40 10 vacuum of the piston's tier -- what is it, tier? Inside the
11 piston chamber. Inside the -- and the follower, it helps to
12 do that also, the follower in the pump.

13 **Q.** Yeah. And you referenced a follower. Is that this
14 item right here I'm pointing to?

14:22:04 15 **A.** Yeah, yeah.

16 **Q.** I'd have to do it on this sheet. And just explain to
17 the jury this follower concept and how that evolved, I mean
18 became part of the Groeneveld system?

19 **A.** The form was in the pump because in the beginning, we
14:22:21 20 didn't have the follower. It came in much later, based on
21 expedience which we have with low temperature. At that
22 time, there were also a lot of producers of greases. It was
23 also a very complicated story because it was so many
24 greases. Now we produce our grease ourselves, and we're all
14:22:45 25 via specification. So we have a very good grease, but at

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1 that time not. Everybody wanted to sell grease and
2 sometimes you found really not good quality. But, okay, the
3 client is the key. He decided I want to have this grease
4 and you have to make in a way functioning with all kind of
14:23:05 5 different greases.

6 The grease can -- the follower can add to fill the
7 chamber. So behind, under the follower, there is a spring,
8 which is connected in the bottom. So when you fill up, the
9 follower goes up, the spring becomes on the tensions, and
14:23:23 10 when the follower goes down -- the grease goes in, the
11 spring tier pulls the follower down and have the grease to
12 go in the chamber. And, of course, you have the vacuum
13 because the piston goes back, you create zero vacuum. And
14 when there's -- where there is vacuum, something ought to go
14:23:44 15 inside, yeah. And grease goes inside. We look at the
16 grease goes inside.

17 **Q.** Are there other single-line pneumatic ALS systems that
18 have a follower plate in it other than yours and the
19 Lubecore?

14:24:01 20 **A.** Yeah, I think so, yeah, yeah.

21 **Q.** Can you just tell us maybe a few of them?

22 **A.** I think the other picture which you have, Sterk, has
23 also a follower.

24 **Q.** The Sterk?

14:24:13 25 **A.** I think so.

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1 Q. Let me.

2 A. I don't know if you have other pictures.

3 Q. I remember the number 47. Hold on.

4 A. You cannot see, but I think there is a follower also
14:24:28 5 on top, yeah.

6 Q. And does a follower plate have to be round to function
7 in the way that you described?

8 A. No, of course not.

9 Q. I know you said of course not. Can you explain to a
14:24:46 10 jury why not?

11 A. Because -- because this is a round reservoir,
12 automatically the follower has to be round. But, you make a
13 square follow the square.

14 Q. And if it's -- if it's an oval shape, is that a
14:24:58 15 possibility as well or --

16 A. A round, of course, is the most easy shape. This is
17 more natural, but you can make different shapes, of course.

18 Q. Is it difficult to produce or more costly to produce a
19 square reservoir shape?

14:25:20 20 A. To produce, no, because of the amount of nylon in the
21 end makes the price of the reservoir. There are some
22 problems because something round when you're messing
23 something round, the pressure goes to all sides on the
24 same -- on the same time. So there will not be formation of
14:25:42 25 the reservoir. When you have a square reservoir, and you

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1 have pressure inside, the pressure goes to the long walls,
2 and again, can bend outside. So it has to be very good
3 material. When you make a square, the material has to be
4 better than when you make it round.

14:25:55 5 **Q.** The material that the Groeneveld reservoir is made of,
6 what is that material?

7 **A.** I think make a lot -- this is -- it's a sheet. Let's
8 say I call it sheet, but it's not sheet, of course. Nylon.
9 So it's lower quality than really nylon; ph 12, yeah.

14:26:19 10 **Q.** You said the Groeneveld does make products with square
11 reservoir?

12 **A.** Yes, yes.

13 **Q.** What kind of material is used for --

14 **A.** Nylon reservoir, nylon, ph 12. Nylon can resist a
14:26:33 15 higher temperature before it becomes weak. It can resist
16 lower temperature before it go weak, but because it's round,
17 even when it becomes weak, it don't deform so much.

18 **Q.** Were your selection of materials more limited back in
19 the early 1980s than they are now for making a product such
14:27:03 20 as this?

21 **A.** Yeah, now we have much more possibilities, of course.
22 You have much more possibilities of 409 nylon materials.
23 Aluminums have changed, especially in the nylon world in,
24 let's say in the plastic world, there are so many
14:27:21 25 possibilities, and at that time not, at that time, no.

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1 Q. If you were designing an EP-0 pump from scratch,
2 single-line EP-0 automatic lube system from scratch today,
3 would you make it look like the one that we have here?

4 A. When we had this, and they asked me to make another
14:27:56 5 one.

6 Q. Let me -- I'm not clear.

7 A. Completely different, yeah.

8 Q. Yeah.

9 If you were making this pump today, would you make it
14:28:06 10 the same way and use the same materials?

11 A. No, I don't think so.

12 Q. Can you explain to the jury why not?

13 A. Yeah, because aluminum die, there's a lot of aluminum
14 inside. It's very difficult to work. Yeah, it's critical
14:28:21 15 material. It's -- it's heavy corroding. So you have a lot
16 of problem with corrosion with aluminum. The working, you
17 have to work it completely. It's very expensive. Nowadays
18 with nylons or with other material, you can finish the piece
19 completely without working.

14:28:43 20 So no, I will not make it in the same way. Absolutely
21 not.

22 Q. So why is Groeneveld still making the pump, its own
23 pump exactly this way, if it's harder and more expensive to
24 do so.

14:28:58 25 A. Because it's our pump. We went on the market with

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1 this pump. Everybody knows this pump. I make already more
2 than 650,000 of these pumps, and we have a lot of tooling,
3 special machines, which are working the base. So we make --
4 we create later on in the center, working center, where you
14:29:22 5 put the pumps on and go around and work from all kinds of
6 sides, work for the -- we have so many products at the
7 moment. So focus is our investment and not to that. And
8 it's a very nice pump. As long as we sell it, we will keep
9 it probably, yeah.

14:30:00 10 **Q.** Where you mentioned that you've made about 650,000 of
11 these single-line EP-0 pumps. Over what period of time are
12 you talking about now?

13 **A.** I think it is -- this is from '86.

14 **Q.** And where does Groeneveld sell its EP-0 ALS pumps,
14:30:26 15 geographically?

16 **A.** We have service our own Groeneveld centers all over
17 the world, everywhere.

18 **Q.** Does that include the United States?

19 **A.** Yes, also distributor in the United States, yeah.

14:30:35 20 **Q.** And was there any evolution in the internal design or
21 internal components of the pump from when it was first put
22 on the market over the years?

23 **A.** Yes, of course. I think there is a registration pack
24 on the kit on the pump.

14:31:05 25 **Q.** I'm sorry. I didn't hear you.

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1 **A.** There's a green label on the pump where we automatic
2 the serial number of the pump, the day when it is produced
3 and also the revision. The revision is the notification on
4 the follower on the pump, which is not interchangeable with
5 the one before. And every time you change something in the
6 pump and it's not interchangeable with the pump before, you
7 increase the level of the revision of the pump, and I think
8 nowadays we are on Revision 2.

9 **Q.** And the revisions that have been made to the pump, the
10 EP-0 pump over the years, are those revisions to internal
11 mechanisms or the outside look and design of the product?

12 **A.** I think it's for 90 percent inside, and maybe ten
13 percent outside.

14 **Q.** And the 10 percent outside, when was that done?

15 **A.** The 10 percent outside, probably the -- they are
16 changes of protection of the aluminum body for like, let's
17 say corrosion protection, maybe some balls, some screws.
18 The reservoir can change the top of the reservoir we changed
19 a few times.

20 **Q.** Has the look of the pump changed?

21 **A.** No, no the look has not changed.

22 **Q.** Okay. So when you say the -- what did you say? The
23 coating on the base, is that the one that's visible? Let me
24 put it this way, is the change something that?

25 **A.** No, no, no. Only an expert knows that and can see it

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1 maybe. Otherwise, you cannot see it.

2 MS. MICHELSON: Your Honor, if you could put
3 that up for me. Thank you.

4 Q. And now showing you Exhibit 49, can you just identify
14:33:10 5 that, please, for the record? What's this?

6 A. You asking me?

7 Q. I am, yes.

8 A. This is a Groeneveld pump.

9 Q. And similar to the one that we have here on the table,
14:33:27 10 the exemplar we have here?

11 A. I think so, yeah.

12 Q. Okay. I think we've got one here, too. Is that this
13 one as well?

14 A. That's the Groeneveld pump, yes.

14:33:40 15 Q. So Plaintiff's Exhibit 1. So you were mentioning
16 about some serial identifier?

17 A. Yeah, the green label on the front.

18 Q. This thing?

19 A. Yep. This label is written, the name of the pump, so
14:33:57 20 the di e name, the die number of the pump.

21 Q. And there's a yellow sticker on this pump do you see
22 that there?

23 A. Yeah, okay.

24 Q. Exhibit 49?

14:34:12 25 A. Yeah, okay. We sell this pump to a lot of

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1 distributors all over the world, the Groeneveld
2 distributors, but sometimes our dealers, and a lot of them
3 put their own label on it just to show to the client when
4 there is something wrong or when they need service, where to
14:34:29 5 come to because, okay, we have an international company and
6 can easily not when the pump is somewhere in whatever,
7 Africa or whatever. So only a lot of dealers put their own
8 label on it. This is a small one, but there's also bigger
9 ones, yeah.

14:34:46 10 **Q.** And when you use the word "dealer," are you referring
11 to distributors? Do you use them at all as the same or --

12 **A.** We have subsidiaries, we call Groeneveld subsidiaries.
13 This is our Groeneveld owned subsidiaries in several
14 countries, I think we have over 30 over the world, and we
14:35:08 15 have dealers, these are importers. We call them importers.
16 They buy Groeneveld products and sell it for their own as
17 their own company.

18 **Q.** Okay. And I know I'm not near the microphone, but I
19 just want to point this out to the witness. This is a
14:35:26 20 Defendant's Exhibit A, which is -- do you recognize this
21 item right here?

22 **A.** Yeah, yeah.

23 **Q.** And is this also Groeneveld pump that's --

24 **A.** It's a Groeneveld pump, yes.

14:35:39 25 **Q.** And do you see the yellow sticker on this item as

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1 well?

2 **A.** Yes, this is a CPL sticker, yeah.

3 **Q.** Was there a time when CPL was not owned by Groeneveld?

4 **A.** Yes.

14:35:59 5 **Q.** Can you just explain to the jury the best -- about
6 that a little?

7 **A.** CPL was a dealer for lubrication systems. I don't
8 know exactly any more when it started, but I think '88, '89
9 somewhere in that period, and he was very successful in
14:36:20 10 Canada to sell Groeneveld lubrication pump and the name was
11 CPL.

12 **Q.** And who originally owned that company when it was a
13 distributorship?

14 **A.** As I know, Jan Eissis, but I don't know the owner, but
14:36:35 15 I think Jan Eissis.

16 **Q.** That's this gentleman here?

17 **A.** Yeah, Jan Eissis, yes.

18 **Q.** And at some point in time, did CPL -- was that no
19 longer a distributorship but rather there was a difference
14:36:50 20 in the relationship with Groeneveld?

21 **A.** Yeah, Ivan was very successful in Canada and able to
22 sell his company to Groeneveld. I don't know exactly what
23 year, but anyway it was in 2000 somewhere, and he remained
24 manager director in Groeneveld Canada for some years and
14:37:11 25 then he left.

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1 Q. Do you recall right now when he left, about when he
2 left Groeneveld?

3 A. He left Groeneveld, yeah.

4 Q. When? That's okay.

14:37:27 5 A. I think 2007 or 2008. I don't know exactly when.

6 Q. Was CPL involved in selling the Groeneveld product in
7 the US as well as Canada or was it only in Canada?

8 A. Only Canada.

9 Q. Did there come a time when Mr. Eissis as either
14:37:51 10 Groeneveld distributor CPL or as a Groeneveld employee was
11 involved in activity in the U.S. for Groeneveld?

12 A. Yes, yes.

13 Q. Can you?

14 A. He sold his company to Groeneveld. He became managing
14:38:08 15 director of Groeneveld Canada. And at that time, he had
16 ideas to go also to United States, but we had already a
17 distributor then, our own subsidiary in the United States.
18 So I don't want to make too much confusion. There was
19 already a subsidiary of Groeneveld in the United States.

14:38:32 20 Q. Where was that located?

21 A. Nearby in Brunswick.

22 Q. Is that the Brunswick office?

23 A. Yeah.

24 Q. The Plaintiff in this case, Groeneveld Transport
14:38:40 25 Efficiency, Inc., correct?

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1 **A.** Yeah.

2 **Q.** And did Groeneveld also have independent distributors
3 working in the United States to get its product to end
4 users?

14:38:57 5 **A.** No.

6 **Q.** People who were kind of, I guess middle men who
7 would -- you sell the product, sell -- were you involved in
8 these activities?

9 **A.** No, no, no.

14:39:06 10 **Q.** Okay. Then I --

11 **A.** I know nothing about it.

12 **Q.** Sorry about that. Then I'm asking the wrong person.
13 Thank you. When did Groeneveld start selling its EP-0
14 single-line ALS pump and system in the United States,
14:39:26 15 approximately?

16 **A.** I was involved myself because it was the first time we
17 went to the United States to sell hair dryers and
18 lubrication system to, like in Minneapolis, and we found at
19 that time a dealer, Koppelman I think, yeah. And it was in
14:39:53 20 '84, '85, something like that.

21 **Q.** Koppelman. Do you know his affiliation -- I don't
22 know if you do or not so that's why I'm asking -- with Fuel
23 Systems?

24 **A.** I know he became a dealer for Groeneveld. A single
14:40:05 25 deal for Groeneveld for lubrication systems. So more, I

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1 really don't know.

2 Q. Okay. And I think when I use the word distributor, I
3 think you're using the word dealer. Can you explain to the
4 jury what you mean by a dealer?

14:40:19 5 A. A dealer is an independent company who buy systems
6 from our subsidiary in the company or directly from Holland
7 and sell it for its own purpose.

8 Q. Okay.

9 So I'm going to ask you the question using your word,
14:40:34 10 better than my word. Did Groeneveld or does Groeneveld as
11 well have dealers, independent dealers, distributing its
12 product in the United States?

13 A. Yeah, probably yes, because I think the Government was
14 still the dealer. So probably, yes, yeah.

14:40:52 15 Q. Okay.

16 Your EP-0, meaning Groeneveld's EP-0 single-line pump,
17 could you make it cheaper today? Let me rephrase.

18 Could you make it or design it and engineer it so its
19 production costs are less than what the current production
14:41:36 20 costs are, leaving it as it is?

21 A. The same aluminum base you mean and so on?

22 Q. Yeah.

23 A. No.

24 Q. What if you made some -- what if you change the look
14:41:52 25 of the base the way it looks on the outside?

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1 **A.** I think we can make it cheaper now, yeah.

2 **Q.** And why do you think that?

3 **A.** Because the machine part of the aluminum, die casting,
4 the painting, the protection corrosion is, in the end is
14:42:09 5 very expensive, and with plastics or nylon, you can easily
6 cover it. And you have no problem with corrosion whatever.

7 **Q.** And so why does Groeneveld continue to make its pump
8 look exactly like this if there is a more cost effective way
9 to produce it?

14:42:29 10 **A.** Yeah. As I told you, we have -- we produce a lot of
11 different articles and we can focus on only a few at the
12 same time. So when we make a board computer or whatever it
13 is. You cannot nowadays focus also on the pump. By the
14 way, we have a lot of investment done in assembly and in
14:42:55 15 production machines, in toolings, and that -- that's what we
16 wasted to throw away. So just a calculation. And we are
17 not focussed at that moment to make any new pump.

18 **Q.** Can you briefly describe for the jury the process of
19 reverse engineering and industrial products, such as the
14:43:27 20 EP-0 pumps we have in front of us?

21 **A.** Revert engineering in general has nothing to do with
22 the pump. In general, you take something from the
23 competition or whatever it is on the market, you dismount
24 it, you look piece by piece, you try to understand the
14:43:48 25 functioning, you try to understand what kind of material is

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1 used, and you start taking dimensions and you design it,
2 piece by piece again.

14:44:09

3 **Q.** Do you need design drawings or engineering drawings or
4 some kind of drawings to produce and manufacture an
5 industrial product such as this?

14:44:30

6 **A.** Of course. You have to make -- from each individual
7 part inside, you have to make production drawings two
8 dimensional drawings, with all the design, with all the
9 measurements, where to work, where not to work, service
10 treatments, whatever you can imagine is necessary to produce
11 it. So produce it where you give the drawing to understand
12 what it means and then you can make it.

14:44:55

13 **Q.** And how many drawings did Groeneveld make or create to
14 make its EP-0 single-line pump? How many drawings does it
15 take?

14:45:15

16 **A.** From each individual part. So when you have the
17 pressure switch on the phone, 13 parts inside, only the
18 piston is -- piston, the bottom part, top part, okay. In
19 the end, there are six or seven drawings of each individual
20 part, but you make also assembly drawing. So you have a
21 piston which is five or six parts. These are five drawings,
22 but when you make it together, it's another drawing again.

23 **Q.** Oh, I see. So you need drawings for the individual?

24 **A.** Assembly drawings you call it, yeah.

14:45:33

25 **Q.** Drawings for the individual components and then you

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1 need additional drawings?

2 **A.** Yes, for super assembly and for the final assembly.

3 **Q.** I see.

4 I'm going to show you defense now, Defense Exhibit W.

14:45:57 5 I'll just page through it. There's the production drawings,
6 the kind actually required to make a pump, produce the
7 pieces of the pump?

8 **A.** No.

9 **Q.** Can you tell the jury what they are and how they're
14:46:27 10 used?

11 **A.** We call it exploded view, and this is just to show how
12 the parts are coming together. So we -- you can use it, for
13 instance, to assemble a part of the pump but only for
14 assembly but not for producing.

14:46:49 15 **Q.** So -- do the production drawings look different than
16 this Defendant's Exhibit W?

17 **A.** Of course, production drawing is a drawing of this
18 individual part with all the measurements of all the
19 dimensions of each function in the part. Otherwise you
14:47:09 20 cannot make it.

21 **Q.** When Groeneveld first decided it would start making
22 its own pump as opposed to the TSI, Samuel Moore product
23 that you imported way back when, did you investigate or
24 explore what was going on with the competitor? S at the
14:47:48 25 time. I'll rephrase my question if you don't mind.

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1 **A.** We visit, of course, affairs and of course we had
2 knowledge of the competition, of course.

3 **Q.** Yeah. And did you take a look at and investigate how
4 their pumps worked?

14:48:00 5 **A.** Yes.

6 **Q.** Well, explain why and how that is part of the process?

7 **A.** You want to know the weak points of each competition.
8 You want to know the weak points of each competition. So
9 our sales manager, you give the information to the sales
14:48:18 10 people to create arguments how to sell, what to sell and
11 what they can tell, and they are always in competition. So
12 the client will always say yeah, but I've also known an
13 offer from another company, and then they need to have -- I
14 say, yeah, attention -- this is maybe a weak point or this
14:48:35 15 is a weak point; ours is better. So it is very important to
16 understand exactly what the competition is doing.

17 **Q.** And when you did that, did you only take a look at one
18 competitor's pump or did you take a look at a variety of
19 them?

14:48:52 20 **A.** I -- at that time, there was not so many competition.
21 There were only big -- two big players, really Vogel and
22 Lincoln, and they were market leader in the industrial
23 department, but really Vogel was, especially in trucks,
24 very, very successful. And it was our competition.

14:49:11 25 **Q.** And did you look at both those pumps?

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1 **A.** Yes. Yes, of course.

2 **Q.** And did you also take a look in -- you probably knew.
3 Take a look at the pump we marked as 87. Hold on one
4 second. You took a look at the inner workings of this one
14:49:55 5 as well, 87?

6 **A.** This is the pump we sold at that time.

7 **Q.** Did you copy anybody else's pump when you made your
8 own?

9 **A.** I don't think so. It's not look alike I think.

14:50:19 10 **Q.** Sir, this is Exhibit 42. Have you ever seen this guy
11 before?

12 **A.** Yeah, I've seen, yeah.

13 **Q.** And you're smiling. What --

14 **A.** That's a terrible one.

14:50:31 15 **Q.** We have one that's very greasy. David and I got
16 greased up. What do you mean it's terrible?

17 **A.** It's unbelievable. So you can make something like
18 that.

19 **Q.** And did you copy this pump when you made your
14:50:48 20 Groeneveld pump?

21 **A.** No, this pump was born after when we had the pump
22 already, yeah.

23 **Q.** And what's so terrible about this pump? Doesn't it
24 pump grease?

14:50:57 25 **A.** Yeah, I think it pumps, yes, of course.

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1 Q. So what's so terrible about it?

2 A. You tell me what is it.

3 Q. You're the witness. You have to tell us, sir.

14:51:15

4 A. I cannot tell. It's terrible. Yeah. What can I
5 tell? It's not a nice pump. Maybe it function well. We
6 have never tried this pump. The pump was born after -- when
7 we had this already out. I think this is from 86, '87
8 something like that. Yeah.

9 Q. Do you know this is a grease jockey pump?

14:51:33

10 A. A grease jockey pump.

11 Q. Meaning Exhibit 42?

12 A. Yeah.

13 Q. Would you have wanted to design and create, make
14 something that looks like this?

14:51:44

15 A. No, they fire me probably.

16 (Laughter.)

17 Q. And why, if it works, what does anybody care what it
18 looks like?

14:52:02

19 A. You see nowadays the cars, even trucks, nowadays, new
20 truck is nicer than a personal car inside. The shape on the
21 cars, the wheels, the tire protection, the tanks, the air
22 tanks, it's unbelievable nice. Not only a car would go from
23 A to B. No, they want also to make something nice. So when
24 you put something on a chassis of an owner of a truck with
14:52:25 25 truck for a lot of money, he bought all kinds of chrome

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1 insulation, lights and nice things, and then you put this on
2 the chassis. It's terrible, huh?

3 **Q.** Showing you Exhibit 44. Have you seen this photograph
4 before?

14:52:51 5 **A.** The photograph, no, but the pump I know.

6 **Q.** What kind of pump is this one?

7 **A.** This is Interlube pump.

8 **Q.** And this is?

9 **A.** This for an automatic. The electric is very difficult
14:53:07 10 to see, but this is a pump, complete different concept than
11 our pump, complete difference.

12 **Q.** Does it perform the same job, meaning does it also
13 deliver grease to greasing points in the vehicle?

14 **A.** Yeah, all greasing system has only one purpose, to
14:53:23 15 bring some grease to a point which has to be lubricated.

16 **Q.** Okay. You like the way this one looks?

17 **MR. ANASTOS:** Objection.

18 **THE WITNESS:** Already there, already there.

19 **Q.** Do you want to design something that looks like this
14:53:35 20 one?

21 **A.** No, because the philosophy of this -- of this pump is
22 completely different than our philosophy. Because this is a
23 pump, multi-line pump where all the tubes from the pump go
24 directly to the lubrication pump so when you have a truck
14:53:51 25 and put the pump in the middle and 20 points on the back

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1 side, you have to go with 20 tubes from the pump to all
2 lubrication points. And then you can imagine they will
3 break. They will -- it's terrible. We call it a spaghetti
4 installation.

14:54:07 5 **Q.** And so is that a product whose look you think -- let
6 me rephrase my question. Hold on. What do you think of the
7 look of that product? Do you want your product looking
8 something like that?

9 **A.** Care to repeat the question?

14:54:29 10 **Q.** Would you want Groeneveld's product looking something
11 like this one?

12 **A.** Like what? I don't see nothing.

13 **Q.** 44.

14 **A.** No.

14:54:54 15 **Q.** Why?

16 **A.** Because we have another philosophy in lubricating
17 systems.

18 **Q.** Were the commercial people and the sales people at
19 Groeneveld involved in the design of the EP-0 Groeneveld
14:55:16 20 pump?

21 **A.** Of course. We make -- we make art impression at that
22 time. We make some sketches. How it would look like. I
23 think we made even another model to show the pump to the
24 people to management because there was money involved, and
14:55:34 25 we needed to show what we are going to do. So they had an

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1 idea of the shape and the function is only -- yeah, telling
2 how it will function. That's not too easy, but the shape we
3 have to show it, yeah.

14:55:51 4 **Q.** Does the shape or outline of the pump affect the way
5 the thing performs, the way it delivers grease throughout
6 the system?

7 **A.** No.

8 **Q.** Explain this to the jury. It might be obvious, but
9 I'm sorry. I'll ask you to explain.

14:56:11 10 **A.** It's like a car. No? The car go from A to B and
11 they're all different. The shape has nothing to do with the
12 function of the moving from A to B, and it's the same as the
13 lubrication system. The only thing we have to do is create
14 energy and that there is an outlet were grease is coming
14:56:32 15 out, how you do that, you can do it in many, many, many
16 ways.

17 **Q.** Has Groeneveld, has this pump, this Groeneveld EP-0
18 pump, been the subject of a product recall during the years
19 that it's been on the market?

14:56:54 20 **A.** Recall?

21 **Q.** Yeah.

22 **A.** No. Of course you had problems. Recalls from the
23 pump, never.

24 **Q.** Why don't you -- why don't you explain to the jury,
14:57:02 25 when you say problems, can you just give them a context of

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1 what you mean by that?

2 **A.** Okay. You have your quality problems of course, yeah.
3 You find extremes in the market, which you have not
4 foreseen. Heat, corrosion, water, all kinds of things can
14:57:24 5 create later problem. You want to make your product as good
6 as possible. So this is constantly improving. Definitely
7 we're on Revision 22 to make it better and better and better
8 because you want to avoid warranty costs, because it's going
9 directly from your profit. So -- and can also create not
14:57:47 10 good selling. So every time when you see something, which
11 is not good, you try to improve it.

12 **Q.** And if you can just give the jury an idea of the
13 percentage of warranty claims that Groeneveld has received
14 in connection with its products, still rough percentage if
14:58:08 15 you would.

16 MR. ANASTOS: Objection.

17 THE COURT: Overruled.

18 THE WITNESS: Okay.

19 Now, I think we are less than 1 percent. I think we
14:58:20 20 have problems with pneumatic pump when you speak about it.

21 **Q.** And the less than 1 percent, has that been fairly
22 consistent over the years that the product's been on the
23 market?

24 **A.** No, I think in the beginning, we had also a problem,
14:58:35 25 of course.

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1 Q. I'm so sorry.

2 And then would you say it dropped to this less than
3 1 -- let me ask it this way. In the last ten years, let's
4 say what's been the percentage average?

14:58:48 5 A. Very low. I think there is no problem with this pump
6 at all.

7 Q. And how do you know this information?

8 A. Because we have a warranty system. The Groeneveld
9 group has a warranty system. All the subsidiaries are
14:59:03 10 connected via web site to the warranty system. It's also in
11 my department. So I see the whole -- I'm responsible in the
12 end for what I make. So the management tell me we're
13 warranty costs and can't defend it, what are you going to do
14 about it, we think it's too high.

14:59:23 15 So one of my thoughts is to make the products better
16 and better all the time, and this is one of them to avoid
17 warranty costs. But, where you go specific to this article,
18 I think the last ten years is perfect.

19 Q. And just for our record when you say the specific
14:59:42 20 article you're referring to, the EP-0 pump we have pictures
21 of in 49, this picture here?

22 A. No, I think only about this pump here.

23 Q. Yeah. And in the early days when you were -- you had
24 more refinements, let's say, that needed to be done on the
15:00:02 25 pump, the inside of it, did your product look on the outside

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1 like anybody else's in the market or did it look like the
2 one that we have here, the Groeneveld shape and design?

3 **A.** Yeah, this is the pump.

4 **Q.** Has Groeneveld ever -- I'm going to withdraw that.

15:00:29 5 Never mind. I would like you, please, sir, to describe for
6 the jury the concept of product part interchangeability and
7 compatibility. And let me ask a specific question.

8 Can products such as these look the same, look
9 identical, and not perform exactly the same, not be exactly
15:01:05 10 the same?

11 **A.** Yes.

12 **Q.** I would like you to explain this concept to the jury.

13 MR. ANASTOS: Objection.

14 THE COURT: Overruled.

15:01:14 15 **Q.** You may proceed.

16 **A.** The outside -- outside look is only the look and the
17 piece where you mount it against the chassis, and maybe the
18 place where it's the filler coupling, but inside you can
19 make whatever you want. You can change the radial of the
15:01:37 20 piston to drop the pressure. You can make higher quantity
21 or lower quantities of grease outcome. You can change the
22 pressure of the pressure switch, which is on the front. You
23 can have a low level switch, yes or no, inside. You can
24 change the reservoir with several different quantities of
15:02:00 25 grease. You can even make this as a single-line pump which

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1 is a return valve, but you can easily make this as a high
2 pressure progressive pump, which is only one stroke pump.
3 So we have a lot of possibilities to make the outside the
4 same and inside completely different.

15:02:19

5 Q. And are there a lot of possibilities to make the
6 inside the same and the outside completely different?

7 A. I think I already mentioned that that's possible, yes.

8 Q. And I just -- is it more than just possible? Is it --
9 how easy is it or difficult is it to do such a thing?

15:02:38

10 A. It's not -- let's say not difficult. For someone not
11 an expert and not working in this field, probably it's very
12 difficult, but we have a team. I have a lot of nice, good
13 clever designers. And when I say tomorrow okay, we are
14 going to change this pump in another shape, we can -- we
15 will make a design, and we will find it out. Yeah.

15:03:02

16 Q. So is what you're saying is that people who have
17 design and engineering experience with products, it's not a
18 big deal for them?

19 A. Yes.

15:03:17

20 Q. And how can it be, for instance, that a part in a pump
21 or another product can have what -- can look the same, maybe
22 have the same measurements but not perform as well, or
23 perform the same way. Is that possible?

24 A. Can you repeat the question?

15:03:40

25 Q. I will. Can a part in the pump or the pump itself

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1 look the same but not be as good?

2 **A.** Yes, of course, when it's made not in a good way, yes.

3 Each piece has tolerances, yeah, because it fit in an auto

4 part and has to move, and it has to do something. So -- and

15:04:03 5 to avoid resistance and to be sure that it's close with each

6 other, you just call it tolerances, I mean the tolerances

7 are wrong. Something goes wrong, you can have more wear,

8 you can have leakage later on, functioning block, whatever.

9 So this is very important. So it's not just designing and

15:04:28 10 not with functioning. No, no, no. You have to do a lot of

11 tests to understand exactly what you're doing. You have a

12 lot of norms around it. So it's not that you can do

13 everything by yourself because, for instance, they are

14 normally, you buy an O ring with a certain dimension and

15:04:45 15 have to use that and --

16 **Q.** Now, sir, did there come a time -- sorry.

17 **A.** Is that what you mean?

18 **Q.** Yeah. And I guess one follow-up question on that.

19 Can a part in the pump, one of those 50 or 60, however many

15:05:01 20 parts you say are inside the pump or part of the pump,

21 can the Lubecore part, the corresponding Lubecore part, for

22 instance, measure the same as the corresponding Groeneveld

23 part but still not be compatible or fully interchangeable?

24 **A.** Yes, of course. When the dimensions are not correct,

15:05:20 25 it's not interchangeable.

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1 Q. And what if the -- what if the measurement seems the
2 same? Could it still not be interchangeable?

3 A. When all the quotes, I mean the quotes of the article
4 are exactly the same, and I speak about exactly the same
15:05:40 5 with the possibility -- the tolerance is exactly the same,
6 then probably you can change it.

7 Q. Are tolerances different than the measurement itself?

8 A. No, tolerance is a part of a measurement. When I have
9 something around which is 15 millimeters, for instance, it's
15:05:59 10 never 50 millimeters, they don't exist. It's always a
11 little bit more or a little bit less. So when you have a
12 bushing, 50 millimeter, and put a penny inside and also 50
13 millimeter, you cannot go to ten. So the pin has to be
14 smaller and precise. They use -- it's smaller than 50
15:06:19 15 millimeters, which means a tolerance minus 0, 5, 04, 03,
16 whatever.

17 Q. How is having the exact tolerance important?

18 A. The tolerance create the function and the life time of
19 the function.

15:06:36 20 Q. Can you explain that a little bit more?

21 A. When the tolerances are not correct, it's not moving,
22 it's not creating something, there's no function. And when
23 the tolerances are nearly correct, it can damage in a very
24 quick way.

15:06:55 25 Q. Is the difference in the tolerance something that's

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1 visible? You look at it, and it's visible to you?

2 **A.** No, not visible.

3 **Q.** Okay.

4 So, sir, did there come a time when you learned about
15:07:16 5 the Lubecore pump automatic lubrication system which is the
6 subject of our case?

7 **A.** Yeah.

8 **Q.** Can you tell the jury how that came about, please?

9 **A.** I think it was --

15:07:32 10 **Q.** I'm sorry?

11 **A.** 2008 or something, and I was phoned by the management
12 and they told me we have seen a pump, are you sure that you
13 not miss tooling or are you sure one of your producers is
14 not producing something for somebody else. Okay. I know
15:07:52 15 where my tooling is because it was based on the aluminum
16 body, of course, because they look exactly the same. And I
17 went to our producers, which we have several tooling for
18 this body, and we check it and the producers confirmed that
19 they have never produced a piece for somebody else.

15:08:12 20 **Q.** And who did you receive the call from?

21 **A.** From the management in Holland, from the management in
22 Holland.

23 **Q.** Groeneveld people?

24 **A.** Groeneveld people, yes.

15:08:22 25 **Q.** And at that point, had you seen any kind of picture of

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1 the pump, the Lubecore pump or even a Lubecore pump itself?

2 **A.** No.

3 **Q.** And why did they think that perhaps the tooling was
4 missing?

15:08:37 5 **A.** Because the pump looks the same and the most important
6 part of the pump is the body where you need tooling.

7 **Q.** And after you confirm that you didn't have missing
8 tooling, what happened next?

9 **A.** Then they ask me, show me something, show me a photo
15:08:54 10 or show me something. And then late -- later, I don't know
11 how much later, I receive a drawing of a pump.

12 **MR. ANASTOS:** Your Honor, if you can switch
13 for me, please.

14 **THE COURT:** This may be a good time to take a
15:09:11 15 break. We'll take our afternoon recess, about 15 minutes.
16 Stretch.

17 Keep in mind the admonition and we'll see you then.

18 (Thereupon, a recess was taken.)

19 **THE COURT:** Go ahead.

15:29:14 20 **MS. MICHELSON:** Thank you, your Honor.

21 **Q.** Mr. Van der Hulst, you were talking about receiving at
22 some point, some photographs that you were asked to take a
23 look at. I'm going to refer now to Plaintiff's Exhibit 56.
24 There are several pages here, 56-1 through 3. Here's 56-2.
15:29:51 25 And here's 56-3. And we have here 56-4. And, sir, my

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1 question to you is have you seen these pictures before?

2 **A.** Before, no, I received this pictures also. Yeah.

3 **Q.** Yeah. Can you tell the jury what they are?

4 **A.** This was the famous pump they found somewhere on the

15:30:25 5 market. I don't know where, maybe Canada, the United

6 States. I don't know where. And the people sold this pump

7 and send us -- phone me if I knew something about missing

8 tooling or whatever. I said no, and they sent me this

9 photo.

15:30:39 10 **Q.** And why did they send you the photos?

11 **A.** Because I wanted to understand what was happening.

12 **Q.** And well, why didn't they understand what was

13 happening? They saw the --

14 **A.** Everybody thought it was a --

15:30:54 15 MR. ANASTOS: Objection.

16 THE COURT: Yeah. The objection is sustained.

17 Just explain why you asked him to.

18 MS. MICHELSON: I'll move on.

19 THE COURT: Yeah.

15:31:01 20 **Q.** So when you received the photographs, were they

21 also -- were the photographs accompanied with any kind of

22 instructions or requests put to you? Did anybody ask you to

23 do something with them, is a better question?

24 **A.** Yeah, they asked me to understand what it was, if it

15:31:17 25 was one of our tooling of our pump.

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1 Q. And your reaction when you saw the photographs was
2 what?

3 MR. ANASTOS: Objection.

4 THE COURT: Overruled.

15:31:33 5 THE WITNESS: My first was this is our pump,
6 not a label of course. It's not see so -- from the photo,
7 you cannot see the difference.

8 Q. You see there's a slightly different label on there.
9 You see that in the photo, correct?

15:31:46 10 A. Yeah, okay. But, the labels say nothing as I already
11 told you before that the label of our dealers or
12 distributors mount their own label on it and say nothing.
13 Our Groeneveld pump, you can put every label on it the way
14 you want.

15:32:06 15 Q. And so what struck you in the photographs that made
16 you think it was a Groeneveld pump?

17 A. From this side, you think it's a Groeneveld pump and
18 exactly the same. From the other side, when you look
19 better, you'll see some difference.

15:32:28 20 Q. And what difference can you detect in this picture
21 from --

22 A. You see the difference of the inlet of the follower of
23 the filler coupling.

24 Q. This side here?

15:32:37 25 A. Yeah. This filler coupling is a little different than

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1 ours. We use an elbow, a 45 degree elbow, and this is
2 straight. So at that moment when I saw this and I -- and I
3 enlarge it, I say hey it's not the same tooling.

15:32:59

4 **Q.** Is there anything else in the photographs that you
5 detected as different between the Lubecore and the
6 Groeneveld?

7 **A.** No, only that -- of course, the etiquette, yeah.

8 **Q.** I didn't hear you.

9 **A.** Only that and the etiquette in front of the pump.

15:33:14

10 **Q.** The ID plate?

11 **A.** The ID plate.

12 **Q.** Oh, okay. I see. Thank you. And when you talk about
13 the filler, the coupling?

14 **A.** Yeah.

15:33:23

15 **Q.** Is that these items here?

16 **A.** Yes, this item.

17 **Q.** And this one on the Groeneveld?

18 **A.** Yes.

19 **Q.** On the lower left-hand side of each pump?

15:33:37

20 **A.** Yes.

21 **Q.** And is that item in the same general location on each
22 pump?

23 **A.** It's on the left side, yeah.

24 **Q.** And what -- what is the difference that you saw

15:33:56

25 between the two of them in the photos?

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1 **A.** The one of Lubecore goes straight in the body. And we
2 use 45-degree elbow.

3 **Q.** And, sir, did you share the photographs or did other
4 people on your team participate in reviewing the photographs
15:34:18 5 and trying to figure out what was going on? Were you the
6 only one on that?

7 **A.** No, of course, I send it around to the people in the
8 company. In Italy, I don't know what they did, but they
9 send it to me and I show it to some people and say something
15:34:34 10 is happening.

11 **Q.** Did you know what was happening by just looking at
12 pictures of the Lubecore pump?

13 **A.** No. Of course by asking, I was informed that --

14 MR. ANASTOS: Objection.

15:34:47 15 THE COURT: Overruled.

16 **Q.** You can continue, sir.

17 **A.** Of course by asking, I was informed that Mr. Jan
18 Eissis had started with the lubrication system for himself
19 again.

15:35:05 20 **Q.** And I believe -- did you give us a time frame and
21 approximate time frame when this inquiry was going on?

22 **A.** There's a date on the photo. So I assume this was the
23 date in April when I received the drawing, and I think it
24 was that period.

15:35:22 25 **Q.** And what did you do after that, in relation to the

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1 Lubecore pump and your investigation of what was going on?

2 **A.** Personally, I did nothing. Of course, they were
3 upset, and they asked to get a pump as soon as possible in
4 Holland to examine what was happening.

15:35:44 5 **Q.** And what kind of pump did people start searching for?

6 **A.** To pump the photo probably.

7 **Q.** The Lubecore?

8 **A.** Lubecore pump.

9 **Q.** And in your -- in the lab in Italy where you worked,
15:35:58 10 did you guys receive an actual Lubecore pump at one point?

11 **A.** Much later, so much later, a few months later because
12 first they send insulation to Holland, they did examine
13 about what it was, how it looked like, and whatever to be
14 sure that it was a copy as we say it, and then they send it
15:36:20 15 to me for determination if there was groove parts inside or
16 something like that, and we did some study about the pump to
17 see if it was exactly the same, yes or no.

18 **Q.** And when you say we did -- we looked into, we did a
19 study to see if they were exactly the same, can you describe
15:36:40 20 to the jury what your department did, please?

21 **A.** We dismounted the pump completely, cleaned the piece,
22 and we take the measurement of all the parts we know,
23 compare it with the parts of us, because sometimes it was
24 not possible to see if the parts are really different, yes
15:36:57 25 or no, and we designed completely the pump. Let's say this

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1 way and we try to see if there was any difference in
2 functionality or measurement or whatever.

3 Q. And what did you find?

15:37:20

4 A. Yeah, only for the side part, exactly the same as the
5 Groeneveld pump.

6 Q. And did you in your department create some drawings,
7 3D and 2D drawings of the Lubecore and compare them to the
8 Groeneveld components in the pump?

15:37:36

9 A. Of course, the one thing was to know exactly what was
10 happening. And so I have to -- to show them, they said this
11 is -- this is the copy, all the drawings, this is the only
12 difference, and to convince them that, yeah, it has to be
13 done, some action.

15:38:08

14 Q. And I'm going to -- I need my -- we're going to put
15 them on in a minute, but before I do that, I just want to
16 just ask you if these -- if you recognize these as the
17 drawings that you just described that your department
18 created as part of the analysis?

19 A. Yeah. These are our drawings.

15:38:23

20 Q. Okay. That's Exhibit 51 for the record. And if you
21 could please bring those up for us.

22 THE COURT: You want them on the computer
23 or --

24 MS. MICHELSON: Yes, sir.

15:38:43

25 THE COURT: You have to ask me, Deborah.

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1 MS. MICHELSON: Oh, I was being asked if
2 you --

3 THE COURT: And then I've got to figure this
4 out again.

15:38:49 5 Q. Mr. van der Hulst, we're going to page through these
6 one by one, and if you could just describe to the jury what
7 these drawings show. And if you want us to stop any
8 particular place to explain something, please let us know
9 and we can do that. So what are we seeing here?

15:40:01 10 A. This is the pump body. The base of the pump is the
11 black part of the pump, which you see in front of you.

12 Q. And whose parts -- whose product parts are displayed
13 in the screen?

14 A. Can you repeat the question, please?

15:40:15 15 Q. Are these the same parts or the two different
16 companies displayed on the screen?

17 A. These are different parts, of course, but they look
18 the same.

19 Q. Are both Groeneveld and Lubecore parts depicted in
15:40:29 20 this picture, which is Exhibits 51-6? Is it a comparison of
21 Groeneveld and Lubecore?

22 A. Right. One is from Groeneveld and the left one is
23 from Lubecore.

24 Q. Okay. And what are you -- what does this show, this
15:40:46 25 picture, 51 --

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1 **A.** This is the base of the pump, the base part of the
2 pump. The body of the pump we call it.

3 **Q.** And how were these drawings created in a computer
4 system?

15:41:02 5 **A.** We redraw the drawing completely. So, for instance,
6 this body is very complicated; maybe took more than one week
7 to draw again. But, we have three-dimensional machines to
8 make measurements.

9 **Q.** Sorry?

15:41:14 10 **A.** We have three-dimensional machines. So we can do
11 measurements. So you take the body, you put sensor against
12 each party you want to do, and then the drawing is created
13 automatically.

14 **Q.** And your department took the measurements of the
15:41:34 15 Lubecore component parts?

16 **A.** Yeah.

17 **Q.** And put the information into your computer software?

18 **A.** In the intercom system, yeah.

19 **Q.** And the computer then created the drawing?

15:41:45 20 **A.** No. You have to finish, of course, but the dimensions
21 you can put in and then you have to finish the drawings,
22 yeah.

23 **Q.** Okay. And so on the right-hand side is the
24 Groeneveld, I guess the reciprocal part on the Groeneveld,
15:42:02 25 the base, correct?

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1 **A.** Yeah.

2 **Q.** And what does this picture show about the two base,
3 one of the Lubecore and one of the Groeneveld?

4 **A.** That they're identical. Only the entrance of the
15:42:19 5 grease is a little different. Okay. On that side, you
6 cannot see it so good because the picture -- the picture is
7 in black, but there, you can see it.

8 **Q.** Why is one picture, I guess, silver and the other --
9 or gray and the other one --

15:42:33 10 **A.** I don't know.

11 **Q.** Do the parts that you -- did the Lubecore that you
12 received in your department look like the one we have here
13 or did it look different than what we have here?

14 **A.** It was black -- it was black, too.

15:42:45 15 **Q.** And so if you page through here, there's a -- is this
16 the base again on 51-7?

17 **A.** They're both black, same drawing only from the other
18 side, and I have no idea why one is light and this one is
19 dark.

15:43:01 20 **Q.** Okay.

21 **A.** I think it's something to do with the light and the
22 computer.

23 **Q.** Yes, but maybe I can help with -- your Honor, can you
24 switch me here and see if this works out better for us?

15:43:16 25 **A.** Yes.

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1 Q. So if I'm showing you now 51-8, what is this picture,
2 sir, this better for you to see?

3 A. Yeah, I see it, yeah. This is -- this is the left
4 side of the pump and the back side of the pump.

15:43:40 5 Q. And what did you find about the measurements of the
6 Lubecore pump as compared to the Groeneveld when your
7 department went through the process that you described?

8 A. I don't understand the question. I don't understand
9 the question.

15:43:55 10 Q. Oh, okay.

11 Were the measurements of the two parts the same or
12 different?

13 A. There are runs, maybe thousands of measurements on
14 this body. So if you can see by your eyes are different,
15:44:12 15 they are the same.

16 Q. Are the measurements of the Lubecore base the same or
17 different as the measurements of the Groeneveld base? You
18 understand what I'm asking you?

19 A. It's very difficult because there are, as I told you,
15:44:32 20 hundreds of measurements inside. Are they the same? They
21 cannot be the same.

22 Q. Okay. All right.

23 Let me see how I can say this better. You say there
24 are hundreds of measurements?

15:44:46 25 A. More than hundreds.

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1 Q. For each base?

2 A. Everything has a measurement, everything has a
3 thickness, everything has a dimension, everything, when you
4 see the official drawing of that, big like that, hundreds of
15:45:00 5 dimensions.

6 Q. And did the corresponding measurements on the Lubecore
7 match the measurements?

8 A. Let's say for 95 percent.

9 Q. And what is this?

15:45:13 10 A. This is a liner.

11 Q. What does it do and what did you find?

12 A. It's exactly the same.

13 Q. What does this piece?

14 A. This piece is inside the pump. It's the part where
15:45:27 15 the piston is moving in to avoid a piston, is moving in the
16 aluminum, with his gasket, we put this liner, it's for us,
17 it's a special material. I don't know the material of the
18 Lubecore but there's a special material, and it avoid
19 corrosion on the side of the -- of the body inside.

15:45:54 20 Q. And when you took the measurements on the Lubecore,
21 what did you say this is a bushing?

22 A. A liner. We call it a liner.

23 Q. When you took the measurements of the Lubecore
24 bushing, were they the same as the measurements,
15:46:10 25 corresponding Groeneveld bushing?

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1 **A.** No, dimensions are the same.

2 **Q.** What do you mean by nominal?

3 **A.** Nominal dimension is the measurement which you measure
4 when you measure something with a linear or with a very
15:46:27 5 simple measurement equipment so you can see one millimeter,
6 for instance, or can see only millimeter. This is what we
7 call a nominal dimension.

8 **Q.** Okay. I'm now moving to 51-10. Can you tell us what
9 this is?

15:46:40 10 **A.** This is the cover of the cover of the pump.

11 **Q.** And the Lubecore pump is on the left, and the
12 Groeneveld cover is on the right?

13 **A.** Yes.

14 **Q.** And we actually can see those here in the courtroom
15:46:51 15 today on the exemplars we have?

16 **A.** Yes.

17 **Q.** And what do you --

18 **A.** The inside, the back side, inside, but you can --
19 which you cannot see with the reinforcement strips to see --
15:47:08 20 okay, exactly the same.

21 **Q.** And are you talking now about Exhibit 51-11, which is
22 the picture I have up on the screen right now?

23 **A.** I cannot see any number on --

24 **Q.** I'm sure -- okay. Here's the number?

15:47:25 25 **A.** Yes, yes.

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1 Q. What are these pictures of?

2 A. These are the covers on the other side.

3 Q. The bottoms?

4 A. From the inside.

15:47:34 5 Q. And what did you find concerning the measurements of
6 the Lubecore?

7 A. Exactly the same.

8 Q. And what's this?

9 A. The parts to fit the cover to the central roll.

15:47:51 10 Q. And what did you find about the Lubecore nominal
11 measurements of?

12 A. Exactly the same.

13 Q. And now 51-13?

14 A. The internal rod.

15:48:04 15 Q. Guide rods in the --

16 A. Yeah, this is the central pain where the follower is
17 moving along.

18 Q. And what did you find in terms of the nominal
19 measurements of this part of the Lubecore?

15:48:18 20 A. Exactly the same.

21 Q. Now, 51-14, I promise I won't go through all 50 of
22 them, but just trying to get an idea. Let me put it this
23 way. Did you -- did you create drawings of all of the
24 Lubecore component parts?

15:48:41 25 A. Yes.

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1 Q. And what did you find in terms of the measurements,
2 the nominal measurements of the corresponding Lubecore
3 components?

4 A. Let's say they're all for the parts, are for 95
15:48:54 5 percent the same.

6 Q. And did you do -- other ALS manufacturers have
7 component parts with 95 percent the same nominal
8 measurements as the Groeneveld?

9 A. No, I don't know that.

15:49:17 10 Q. Does any --

11 A. I don't know any would look the same.

12 Q. Okay. I just want to make sure the record is clear,
13 you don't know or, you know, there's no such thing?

14 A. I know they are not there.

15:49:26 15 Q. And you paged through this document before, correct?
16 You've identified this before, correct, this Exhibit 51?

17 A. Of course, my team -- I give an order to make this.

18 Q. And are there -- are there some parts on the inside
19 that are very special, unique to the Groeneveld EP-0 pump?

15:49:52 20 A. I don't understand your question.

21 Q. That are different from -- very different from
22 everybody else's, technologically unique?

23 A. They are only fitting highly in our pump. Therefore
24 they are -- as a mechanical part, it's not unique, or as a
15:50:15 25 functional part, it's not unique but fit only in our pump.

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1 Q. If the measurements of the Lubecore are nominally the
2 same, if the nominal measurements are the same, then why
3 aren't they interchangeable with the Groeneveld parts,
4 inside and out?

15:50:35 5 A. Which part you mean?

6 Q. Well, any of them, any of these internal parts we were
7 just describing.

8 A. The Groeneveld part or the Lubecore part?

9 Q. If the measurements of the Lubecore part are the same
15:50:52 10 as the corresponding Groeneveld part, why isn't the Lubecore
11 part interchangeable with the Groeneveld? Why can't you
12 take a Lubecore piston and stick it in the Groeneveld if the
13 measurements are the same?

14 A. Because not one part is the same, but you cannot make
15:51:11 15 something the same. So you have to make something in a
16 certain range of tolerances. When the part is made in our
17 range of tolerances, you could probably change it, but when
18 you don't know that, it's not possible.

19 Q. Now, Exhibit 51-25, what part is this?

15:51:36 20 A. As I told you before, when you press aluminum, die
21 cast aluminum, there are velocity in aluminum because it's a
22 liquid with high temperature pressed on the high pressure in
23 a steel tooling, but there is air inside. There's always
24 small bubbles of air. And in the return valve there, you
15:51:57 25 have pressure, and there can be a leakage around the

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1 O-rings, around the O-rings. There's a reason we have push
2 in the return valve, this bushing is aluminum bushing for
3 aluminum turn part, which we press in with glue and special
4 tolerance. We press in the body. And inside this is the
15:52:16 5 return valve.

6 **Q.** And did you -- what did you find in terms of the
7 nominal dimensions and measurements of the corresponding
8 Lubecore part here depicted?

9 **A.** This part is identical.

15:52:35 10 **Q.** Here, I will like to show you this one, 59-26?

11 **A.** Return valve in the body bottom.

12 **Q.** What did you find in -- with this part in the
13 Lubecore?

14 **A.** For the dimension exactly the same, nominal is exactly
15:52:52 15 the same, I cannot say something about the black part on top
16 because this is a rubber part, and this can be very
17 critical, very critical when you have not included the
18 rubber for that. It can damage, and it can leak in your
19 pump.

15:53:08 20 **Q.** Is this what you're talking about?

21 **A.** The black part on top, yeah.

22 **Q.** So are you saying that this small piece depicted on
23 51-26, that can be?

24 **A.** Can create problems, good functioning of the pump,
15:53:22 25 yes.

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1 Q. What kind of problems can that create?

2 A. When you have a return, when the pistons go back in
3 the pump?

4 Q. Yeah.

15:53:28 5 A. It will shut back not from the reservoir but also from
6 the main line, and we don't want to return from the main
7 line second. You want to have -- the return has to flow
8 very slowly back by the valve. If this valve avoid the
9 piston is coming from the main tube and not the reservoir.

15:53:49 10 Q. And I see there are a few different pieces to this
11 particular part, correct?

12 A. There like a bolt, a spring, there looks --

13 Q. This is -- this is -- gaskets or --

14 A. Gasket is a couple ring, a bolt, and spring and
15:54:11 15 piston.

16 Q. And the measurements of the Lubecore of each of those
17 parts that you broke down?

18 A. Are the same.

19 Q. And it looks from the picture, but I don't know, I'm
15:54:28 20 asking you, is the arrangement, the particular arrangement
21 of each part exactly the same as well?

22 A. Yeah.

23 Q. Could somebody independently create a Lubecore system,
24 say denies diverse engineers, denies having Groeneveld
15:54:49 25 drawings, come up with the same exact arrangement in the

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1 same exact measurements that you see here depicted in 51-26
2 accidentally?

3 MR. ANASTOS: Objection.

4 THE COURT: Overruled.

15:55:00 5 THE WITNESS: No, it's impossible.

6 Q. And I won't ask you why, okay. I think that's pretty
7 evident. And here's 51-27. Can you tell us a little bit
8 about that?

9 A. This is the famous fan valve.

15:55:19 10 Q. The famous who?

11 A. Fan valve.

12 Q. What's famous about it?

13 A. It's very important, because when you pressurize the
14 pump, in principle, you have two outlets to the system. You
15:55:36 15 have where the grease comes out, but you have also the point
16 where the grease come back in the pump because when you
17 pressurize the system, the pressure is not to stay in the
18 system. The pressure has to go down to zero because
19 otherwise, the doses internally are not refilling again for
15:55:53 20 the next move. So the pressure in the system has to drop.
21 Therefore, we need two outlets; one is really an outlet and
22 one is a return.

23 And this valve is the return. So when you pressurize
24 the pump, the valve close very good against the ball in the
15:56:15 25 end, and the grease goes out of the pump by the return

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1 valve, which we have seen before, and when the piston goes
2 down, the return valve blows, and the ball and the pressure
3 of the grease pushes this valve to the left and the grease
4 can go to the reservoir back to the pump.

15:56:33 5 Q. And what did you find concerning the nominal
6 dimensions of these items?

7 A. They're all the same.

8 Q. And what did you find regarding the number of pieces
9 that you need to -- for this particular component part?

15:56:51 10 A. Same number, different number. Exactly the same
11 number of pieces.

12 Q. How about the way they are put together?

13 A. Exactly the same.

14 Q. And what happens with this piece, for instance, if the
15:57:10 15 tolerances are different or not right or incorrect?

16 A. Can happen the pump is not closing well when you go in
17 pressure. So when the piston goes up from the pump and you
18 pressurize the system to 80-bar or whatever it is, yeah.
19 It's possible when it's not functioning well, it leaks and
15:57:32 20 the pressure, instead of to the main tube, goes back to the
21 reservoir. So the pump is not functioning, but on the other
22 side, it can also -- when the pressure has to return and the
23 valve block, because it's going too strong in the hole in
24 the bushing, which we seen before the valve is not opening
15:57:47 25 and the system stays on pressure, then the installation is

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1 not functioning also.

2 Q. And did you guys take the nominal measurements of the
3 external outside as well as the internal component parts
4 that we've seen here, the outside stuff and the inside
15:58:11 5 stuff, the housing, the base, and the reservoir, the cap,
6 everything we see on the outside as well as stuff contained
7 on the inside?

8 A. Of course -- of course, you can imagine that our own
9 products, we had already in the computer.

15:58:24 10 Q. Uh-huh.

11 A. Yeah, with tolerances and so forth. This piece, we
12 took the nominal tolerance. We didn't go in details of the
13 tolerance because when you want to know exactly the
14 tolerances of a piece, you need to meet minimum pieces to
15:58:39 15 understand what is really the tolerances. You cannot see
16 from one piece what is tolerance.

17 Q. When you say you can't see it, do you mean you can't
18 see it or you cannot --

19 A. You cannot measure it. You cannot see nothing. You
15:58:51 20 can only measure it.

21 Q. So does it look exactly the same even if the
22 tolerances are different?

23 A. Yes, of course.

24 Q. Okay.

15:59:01 25 So based on your department's comparison of the

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1 dimensions measurements of the external and internal
2 components of the Lubecore, did you -- did you reach a
3 conclusion about that?

4 **A.** The conclusion was somebody made an exact copy of the
15:59:26 5 Groeneveld pump.

6 **Q.** Is that something that happens if somebody isn't
7 intending and trying to do it?

8 MR. ANASTOS: Objection.

9 THE COURT: Objection sustained.

15:59:50 10 MS. MICHELSON: I withdraw.

11 **Q.** Are you aware of Groeneveld's warranty program where
12 you extend your product warranty if the customer uses
13 Groeneveld brand grease; generally aware of that?

14 **A.** There are some subsidiaries, Groeneveld subsidiaries
16:00:13 15 who do that, yeah. They will offer packages to the package
16 of -- to the clients. So they buy the warranty, by telling
17 that they have to use Groeneveld grease or other
18 circumstances. There are several possibilities to extend
19 your warranty, but there is no real -- as I know, main rule
16:00:36 20 from the -- from the head office.

21 **Q.** What is Groeneveld's grease called?

22 **A.** The Green Lube because Groeneveld means green,
23 Groeneveld, and we call everything green.

24 **Q.** When you did your break down and assessment of the
16:01:38 25 Lubecore pump, did you find some difference in the products

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1 that are meaningful in terms of the way the system will
2 perform and operate?

3 **A.** We sold some differences, of course, material,
4 maybe -- in some protection, but the function is -- the
16:02:04 5 functioning is exactly the same.

6 **Q.** And did you see any differences that in your view
7 would affect the quality of the way the thing works?

8 **A.** You cannot see quality. Quality, you can measure, you
9 can control, and you can experience after time.

16:02:26 10 **Q.** Did you see anything in there that Lubecore did
11 different than the Groeneveld that could affect for instance
12 leakage issues?

13 MR. ANASTOS: Objection.

14 THE WITNESS: No.

16:02:43 15 THE COURT: Overruled.

16 **Q.** I can't hear you, sir.

17 **A.** No, you cannot see that. We received one pump. We
18 dismantled the pump. You can disburse some changes, but you
19 cannot see if the quality's worse or not, and I couldn't --
16:03:01 20 you could not foresee that the -- they will get problems in
21 the future. Then you have to do test. You have to have
22 more pieces, and it takes time to be sure that the product
23 is worse than your own product.

24 **Q.** I'm going to show you now some additional pictures.

16:03:36 25 You didn't see anything in there that you thought was going

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1 to give Lubecore big problems down the road?

2 **A.** I saw they use the steel bushing. We use bushing. I
3 thought that's not a good clever ID because you would always
4 have some humidity inside and probably create problems in
16:04:03 5 the future. Okay. The material, the gaskets was different.
6 And not to underestimate, by the way, because it's very,
7 very important, they change the color. I don't know if they
8 change the material. Well, you could not see from one pump
9 if there was any bad thing inside.

16:04:29 10 **Q.** Is it your opinion the Lubecore is as good as the
11 Groeneveld pump?

12 **MR. ANASTOS:** Objection.

13 **THE WITNESS:** I speak about the first moment.

14 **Q.** I see. Did -- and then what happened? What did
16:04:41 15 happen over time?

16 **A.** I see a lot of photos of pumps mounted during the last
17 two years, and they had also a lot of problems I see, yeah.

18 **Q.** And showing you what I've now marked as Exhibit 55,
19 you recall seeing that photograph of the -- of the Lubecore?

16:05:09 20 **A.** I think I saw it, yeah. There was leakage of the
21 reservoir, yeah.

22 **Q.** I didn't even hear.

23 **A.** There was leakage over the reservoir.

24 **Q.** And what would cause such a problem, sir?

16:05:19 25 **MR. ANASTOS:** Objection.

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1 THE COURT: Overruled.

2 THE WITNESS: This is a leakage of reservoir.

3 The reservoir is not closing well on the base of the pump.

4 Q. Well, if the parts have the same measurements and
16:05:35 5 dimensions as the Groeneveld and look exactly on the outside
6 like the Groeneveld, how can this happen?

7 A. Because as I already told you, you cannot justify
8 quality just based on measurement. Quality is based on the
9 fact that you control every piece. What you produce has to
16:05:54 10 be within the tolerances which you put on the drawings, and
11 quality means you have done a few tests and all kinds of
12 temperature tests to create resistance against influences,
13 which you cannot see behind the drawing computer, and you
14 find later on, of course.

16:06:21 15 Q. And do Groeneveld pumps have these problems that
16 you're seeing depicted in Exhibit 55 with the leaking
17 reservoir?

18 A. We have problems, of course.

19 Q. Do you have that now?

16:06:34 20 A. This kind -- this can happen in a lot of ways, in a
21 lot of ways.

22 Q. And are you saying that we have Groeneveld pump
23 leaking pumps all over the place like the Lubecore?

24 MR. ANASTOS: Objection.

16:06:48 25 THE COURT: Objection sustained.

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1 Q. I'm now showing you what's been marked as Plaintiff's
2 Exhibit 60-1 and two, the number, and there's -- and can
3 you -- you see in this picture before, sir?

4 A. I don't know. I think so, but, okay. I can
16:07:53 5 understand the picture, yeah.

6 Q. What is it?

7 A. It's the Lubecore pump.

8 Q. How do you know it's a Lubecore?

9 A. Because it's written on it, and I see the inklings of
16:08:01 10 the filler coupling.

11 Q. Right here?

12 A. Yeah.

13 Q. What about the filler coupling?

14 A. Nothing.

16:08:08 15 Q. I mean tell -- you said it's a Lubecore and not a
16 Groeneveld?

17 A. Because it's different mounted in the pump. So on
18 this -- on the filler coupling, you can see the pump is
19 different than Groeneveld.

16:08:18 20 Q. I see. And what is -- do you see in this area here
21 I'm pointing out, where the reservoir meets the base?

22 A. Leakage of the reservoir.

23 Q. Leaking grease?

24 A. Leaking grease, yeah.

16:08:33 25 Q. All right. What causes that problem, sir?

Van der Hulst - Direct

1 **A.** A lot of things. It can happen.

2 **Q.** Can you tell us a few of them?

3 **A.** I can tell a few, of course.

4 For instance, when you see all the dimension of the
16:08:49 5 reservoir, you have the dimension of the tank, the other,
6 the legs of the tank, which has a special tolerance, you
7 have O-rings on the top in the bottom which close everything
8 which keeps everything together. You have the links of the
9 internal rod which can be different, which have tolerances.
16:09:08 10 You can have the lever, which may not be good quality of
11 nylon. You can have the seat of the O-ring in the bottom
12 where the reservoir is on it. Maybe damaged. The pump
13 can -- could have heat of something that is not straight
14 anymore.

16:09:25 15 We have tooling to make the reservoir. So we stand
16 the tooling out of one piece, and probably, I'm not 100
17 percent sure, probably but this original was made of tubes,
18 which they turned, and then the dimension is very, very
19 important. So you can have a lot of different cases where
16:09:52 20 you don't look well to the different parts, and when you put
21 them together you can create leakage.

22 **Q.** Well --

23 **A.** This is what we call the quality system. So behind
24 the prediction, you have the quality system will control
16:10:11 25 everything what you -- what is coming out of production.

Van der Hulst - Direct

1 Q. Does Groeneveld have a quality system in place?

2 A. Groeneveld group is 9,000 certified and also 14,000
3 for ambient, yeah.

4 Q. And what do -- what does Groeneveld do to ensure the
16:10:32 5 quality and reliability of its EP-0 ALS products?

6 A. We control each individual part after protection,
7 based on a standard. So when you produce, for instance, 500
8 rods, there is a rule that say okay, you produce 500, you
9 have to check maybe ten, and then you have to check each
16:10:58 10 individual dimension. When one of the ten is not correct,
11 you have to scrap or reexamine all the 500. So it's very
12 strict. And this you have to do for each individual part,
13 they tell you mountable. Again, you have to do pressurize,
14 control them, pressure air leakage, all kinds of things.

16:11:19 15 But, in the end, when you check all the pieces before
16 mounting and also the mounting is on the control, you have
17 a -- you have a good product.

18 Q. Do you stand behind the Groeneveld EP-0 product, which
19 is the subject of this case?

16:11:37 20 A. Can you repeat the question?

21 Q. Do you stand behind it? Are you proud of it? Do you
22 think it's a good product?

23 A. The Groeneveld product?

24 Q. Yeah.

16:11:44 25 A. It's the best there is.

Van der Hulst - Direct

1 Q. Well, why do you say this?

2 A. Because I have the experience based on the qualities
3 we produce, based on the warranty claims which we have, and
4 based on the success we have on the market.

16:11:56 5 Q. Is there harm to Groeneveld having Lubecore product on
6 the market that looks just like as we see here?

7 A. Can you repeat the question?

8 Q. I'm just going to withdraw the question because I
9 think there's a communication issue. Can you give me one
16:12:30 10 minute, please?

11 Have you heard of a company that makes ALS products
12 called Ciaponi?

13 A. Yeah.

14 Q. And I'm showing you now --

16:13:06 15 A. Italian company in Florence. I was there one time
16 many, many, years ago. Very small family company. I think
17 they sell only in Italy, but not so much.

18 Q. And showing you what's depicted -- what's PX-132-1, do
19 you see a picture of a Ciaponi pump in front of you?

16:13:32 20 A. Yes.

21 Q. And there's -- somebody mentioned at some point an ALS
22 company called Komho. Have you ever heard of them or seen a
23 pump, Komho pump?

24 A. Komho?

16:13:48 25 Q. Yeah.

Van der Hulst - Cross

1 **A.** No.

2 MS. MICHELSON: I'm going to take a quick look
3 at my notes.

4 I have no further questions of the witness. Thank
16:14:17 5 you.

6 THE COURT: Thank you. Mr. Anastos, any
7 questions?

8 MR. ANASTOS: Yes, your Honor.

9 CROSS-EXAMINATION OF WILLEM VAN DER HULST

16:15:07 10 BY MR. ANASTOS:

11 **Q.** Good afternoon, Mr. Van der Hulst. How are you?

12 **A.** Not so bad.

13 **Q.** Good for you.

14 I'd like to talk to you a little bit first about the
16:15:44 15 point-by-point comparison that we saw of the two pumps.

16 Now, we saw a lot of little pieces, parts that are on the
17 inside of the pump, correct?

18 **A.** Yes.

19 **Q.** Are any of those parts patented in the United States?

16:16:00 20 **A.** No.

21 MS. MICHELSON: Objection. Objection, your
22 Honor.

23 THE COURT: Overruled.

24 **Q.** You know what a patent is?

16:16:06 25 **A.** Yes. I know I have a patent myself. I know, yes.

Van der Hulst - Cross

1 Q. What is a patent?

2 A. A registration of an invention what you have done.

3 Q. And how long a protection do you get under a US
4 patent?

16:16:19 5 A. Ten or fifteen years, around 15 years.

6 Q. I think it's 20.

7 A. 15.

8 Q. 15? Okay.

9 So secondly, all those parts on the inside and
16:16:32 10 outside, are some of them things I can go buy anywhere if I
11 wanted to as opposed to being specialized parts?

12 A. No, you can -- the parts of the inside of the pump,
13 you can only find in Groeneveld subsidiaries. Otherwise,
14 you cannot find.

16:16:48 15 Q. They're all made with special tooling?

16 A. They're all -- no, not all.

17 Q. So some of them are not even just special to
18 Groeneveld?

19 A. Of course, the design are special by Groeneveld.

16:17:01 20 Q. No, some of the parts?

21 A. The parts are designed by Groeneveld. So I think they
22 are, in the end, protected by Groeneveld. They are
23 Groeneveld parts.

24 Q. What do you mean by protected by Groeneveld?

16:17:14 25 A. It's our design. So we are -- we are inventors of the

Van der Hulst - Cross

1 part.

2 Q. Okay. So your position is that all of those pieces
3 are parts on the inside that aren't patented?

4 A. No, they're not patented.

16:17:32 5 Q. And I'm not allowed to copy them?

6 A. I think you are allowed to copy them.

7 Q. You think?

8 A. I think you are allowed.

9 Q. I'm allowed to?

16:17:39 10 A. I think so.

11 Q. So they're not protected, are they?

12 A. I don't know. This is depending on the law in which
13 countries we are.

14 Q. Okay. So if in the United States copying of parts
16:17:51 15 that aren't protected is okay, that means I could open up my
16 own shop and make all of those parts that go on the inside
17 of the Groeneveld part?

18 MS. MICHELSON: I'm going to object to the
19 question.

16:18:02 20 THE COURT: Overruled.

21 THE WITNESS: When it is allowed by law, yes.

22 Q. Okay. Now, the base of the pump, is that patented?

23 A. No.

24 Q. Could I make the base of that pump and sell it?

16:18:22 25 A. Yes.

Van der Hulst - Cross

1 Q. The cap on the top of the pump, is that patented?

2 A. No.

3 Q. Can I make that cap and sell it?

4 A. Yes.

16:18:31 5 Q. The plate, follower plate inside, is that patented?

6 A. We are not the here to discuss patent. We're here to
7 discuss the copy of the form.

8 Q. I'm just trying to say -- Mr. Van der Hulst, let me
9 ask the questions, please.

16:18:43 10 A. Yeah.

11 Q. If the cap is not patented, could I make it and sell
12 it?

13 A. When it's allowed by law, sir.

14 Q. So your position is, I think, that I could make and
16:18:55 15 sell in disassembled form every piece of the Groeneveld
16 pump?

17 A. When it is allowed by law, I think, yes.

18 Q. Okay. Because there's no patent on the shape of the
19 cylinder, is there? I mean what's the inside, what's the
16:19:15 20 diameter of the reservoir?

21 A. 160, I think.

22 Q. 160 CC -- millimeters?

23 A. Inside is six-liter reservoir.

24 Q. But, what's the -- what's the internal diameter on it?

16:19:27 25 A. I think it's 160 millimeters. I don't know exactly.

Van der Hulst - Cross

1 Q. If it's 160 millimeters, is Groeneveld somehow
2 propriety to 160 millimeter clear tubing?

3 A. No.

4 Q. Something only you are allowed to sell?

16:19:42 5 A. No, no, of course not.

6 Q. Okay.

7 And would you agree with me that the size of that
8 cylinder, the area -- not the area, but the volume of that
9 cylinder. I can't remember. What's the base times pie
10 square to get -- how do you calculate the volume of a
11 cylinder?

12 A. Which cylinder?

13 Q. Any cylinder. Based on height? It's a pie or square
14 times height?

16:20:08 15 A. Surface by height.

16 Q. Surface by height. So the size of that cylinder you
17 testified earlier was based on what?

18 A. On consuming what we, based on the necessity from the
19 market how many degrees they want to have inside for a
16:20:28 20 certain period.

21 Q. Exactly. So that inside volume of that cylinder is
22 going to -- is totally determined by something other than
23 human design. It's determined -- yes?

24 A. Yes.

16:20:41 25 Q. Okay. The base of the pump, would you agree with me,

Van der Hulst - Cross

1 first of all, from the die cast aluminum, right?

2 **A.** Yeah.

3 **Q.** Okay. It's a rather irregular shape, would you agree
4 with me?

16:21:01 5 **A.** It's what?

6 **Q.** Irregular shape?

7 **A.** Irregular shape.

8 **Q.** Yes. And it's an irregular shape because it was form
9 fitted around all of the inside parts of the pump?

16:21:10 10 **A.** No, that's not correct.

11 **Q.** That's not correct?

12 **A.** No.

13 **Q.** You didn't try to optimize the amount of material you
14 would use in that base?

16:21:18 15 **A.** Okay.

16 **Q.** Okay. So you didn't want to waste material?

17 **A.** You can't make the difference.

18 **Q.** That's not my question. This particular base
19 optimizes the amount of material in your pump for the
16:21:30 20 internal workings of that pump?

21 **A.** Correct.

22 **Q.** Objection. If you made it different, it would cost
23 more?

24 **A.** No.

16:21:39 25 **Q.** It wouldn't?

Van der Hulst - Cross

1 **A.** Why? You can make -- you can change the material.

2 **Q.** Let's stick with aluminum. If you use more aluminum
3 and rounded out the whole base instead of having the regular
4 shape that it has, wouldn't that cost more to manufacture?

16:21:54 5 **A.** Only the weight of aluminum, yes.

6 **Q.** Only the weight of the aluminum? What's the highest
7 cost item in the manufacture of that whole pump?

8 **A.** The main cost is the working of the aluminum.

9 **Q.** So if you had more aluminum --

16:22:07 10 **A.** Machine part of the -- of the body is the main cost of
11 the body.

12 **Q.** Is the die cast an aluminum pump?

13 **A.** Yes.

14 **Q.** What's the most expensive raw material in the whole
16:22:16 15 pump?

16 **A.** The nylon.

17 **Q.** Okay.

18 What's the material that's used the most by weight?

19 **A.** By weight? Aluminum. But, by cost, the nylon.

16:22:33 20 **Q.** If you increase by weight the amount of aluminum
21 that's in that base to make it look nicer, the base is going
22 to cost more, right?

23 **A.** When you put more aluminum, of course.

24 **Q.** Okay.

16:22:43 25 And if you change -- what's the material that the

Van der Hulst - Cross

1 reservoir is made out of nowadays?

2 **A.** I think you cannot cheat it. You have to do an
3 analysis on it.

4 **Q.** Sorry. Made out of what?

16:22:57 5 **A.** Rilotto. An Italian name. It's a low level of nylon,
6 plastics.

7 **Q.** Okay. Let's call it plastic. Is that okay?

8 **A.** Plastic. Okay.

9 **Q.** If you change the size of that reservoir and made it
16:23:11 10 twice as big, the reservoir as raw material would cost twice
11 as much, correct?

12 **A.** Twice as much, no. I think depending on the weight of
13 the material and the cost, more than twice as much.

14 **Q.** Yeah, if I double the A material, it's going to cost
16:23:30 15 twice as much?

16 **A.** No, because also the dimension has cost.

17 **Q.** Okay. So basically you've optimized the size of the
18 amount of material used in that reservoir also in order to
19 meet the functional demand of how much grease this thing
16:23:50 20 needs to hold between service intervals on a truck?

21 **A.** Can you repeat the question?

22 **Q.** Sure. Does the shape of that -- the volume that's
23 held in that reservoir and the amount of material -- volume,
24 interior volume of the reservoir and the amount of material
16:24:05 25 that's used to hold that volume in is optimized in order to

Van der Hulst - Cross

1 hold a certain amount of grease, that's calculated to fit
2 into service intervals on a truck?

3 MS. MICHELSON: I'm going to object to the
4 question.

16:24:22 5 THE COURT: Overruled.

6 THE WITNESS: Only the lengths is -- only the
7 change of the lengths can change the volume of the
8 reservoir.

9 Q. Right. And wouldn't it cost more to change the
16:24:40 10 diameter of that reservoir? I mean certainly you can get
11 the same volume making a wider reservoir and making it a
12 little shorter, correct?

13 A. Of course.

14 Q. But, wouldn't it cost more to make a base if you did
16:24:50 15 that?

16 A. Yeah, but there's not only the decision to -- it has
17 nothing to do with do I mount the pump. So the limitation
18 of the -- of the place which I have available on the pump
19 has created limitations of the outside of the pump.

16:25:09 20 Q. And one of those limitations, these things -- there's
21 a big bolt on to a truck, huh?

22 A. Bolt on the truck, yes.

23 Q. Four little bolts?

24 A. Four bolts, yes.

16:25:18 25 Q. Is your bolt hold pattern interchangeable with the

Van der Hulst - Cross

1 bolt hold pattern on the Grease Jockey or TSI pump that you
2 were working with before you designed this?

3 **A.** Yes.

4 **Q.** Why is that?

16:25:30 5 **A.** Because we were work already many years with the pump.
6 And, of course, the tooling which was available by the
7 technicians and was possible even to interchange our pump
8 with your pump, so we went -- we have the pattern of the
9 hold and we want to continue with the pattern of the hold
16:25:48 10 because sometimes you have also brackets because the pump is
11 not mounted exactly to the chassis. You have a lot of
12 amount of breakage to mount the pump in different ways
13 against the chassis. And only by chasing the pattern of the
14 pump we have to change also all the brackets. So it was not
16:26:05 15 necessary.

16 **Q.** So you copied the bolt hold pattern and --

17 **A.** It was our design, our intellectual design. This
18 measurement was our design.

19 **Q.** From the original TSI pump you were buying from the
16:26:18 20 United States?

21 **A.** Original design.

22 **Q.** Is your pump still today interchangeable into the
23 Grease Jockey systems?

24 MS. MICHELSON: Objection. That is not --

16:26:27 25 THE COURT: Excuse me. Overruled.

Van der Hulst - Cross

1 THE WITNESS: I don't think so.

2 Q. Are any of your components interchangeable in Grease
3 Jockey systems?

4 A. No.

16:26:35 5 Q. Tubings?

6 A. What?

7 Q. Are the tubings the same size?

8 MS. MICHELSON: Objection.

9 THE COURT: Overruled.

16:26:41 10 THE WITNESS: I don't know.

11 Q. Going back to your -- the presentation of the
12 comparison, you were -- you said something about the
13 drawings having been created automatically just by --

14 A. Only for the body, yeah.

16:26:59 15 Q. Okay. And parts?

16 A. Parts you can measure with a measurement device.

17 Q. How long did it take you to do that, to put together
18 that drawing, that set?

19 A. I think we -- it took us two weeks minimum.

16:27:16 20 Q. Two weeks minimum?

21 A. Yeah.

22 Q. More people working on, would it be less?

23 A. No, only one people. We have other things to do.

24 Q. So one person did that in two weeks?

16:27:25 25 A. Yeah.

Van der Hulst - Cross

1 Q. Let me show you pieces of Groeneveld literature. Are
2 we on here, your Honor?

3 You see that?

4 A. Yeah.

16:28:01 5 Q. You recognize that as a piece of Groeneveld sales
6 literature?

7 A. Yeah. This is one of the Groeneveld sales, yes.

8 Q. And there's two pictures of the EP-0 pump on there?

9 A. Yep.

16:28:15 10 Q. And they both have the great big green Groeneveld
11 label on them?

12 A. They have a Groeneveld label on it, yes.

13 Q. In fact, I think we saw this earlier today, either by
14 you during an opening. What's this, a schematic of how an
16:28:30 15 automated lubrication system works?

16 A. Functioning, yes.

17 Q. And even in this schematic, you put the big Groeneveld
18 G on the pump?

19 A. Where.

16:28:40 20 Q. You see the pump?

21 A. Yeah.

22 Q. You see the big G?

23 A. On the top, yeah.

24 Q. You felt like you had to even put the Groeneveld G in
16:28:49 25 your own schematic sales literature?

Van der Hulst - Cross

1 **A.** Can you repeat the question?

2 MR. ANASTOS: Withdrawn.

3 **Q.** Another piece of Groeneveld sales literature, you
4 recognize that?

16:29:00 5 **A.** Yes.

6 **Q.** EP-0 pump?

7 **A.** Yes.

8 **Q.** Has the big green Groeneveld label on it?

9 **A.** Yeah, but these are all recent photos of my opinion,
16:29:10 10 all recent.

11 **Q.** Well, because we are in recent times, are we not?

12 **A.** What do you say?

13 **Q.** We're in recent times. This is today?

14 **A.** Maybe depending on what you call recent.

16:29:20 15 **Q.** What are you referring to as recent?

16 **A.** It can be one year ago, it can be ten years ago.

17 **Q.** Your people's exhibits. This is another piece of
18 sales literature, correct?

19 **A.** Yeah.

16:29:30 20 **Q.** Got a green Groeneveld pump on it?

21 **A.** Yes.

22 **Q.** With a label?

23 **A.** Yes.

24 **Q.** Now, I'm pretty sure I heard you say a few minutes ago
16:29:39 25 when you were talking about labels, that labels say nothing.

Van der Hulst - Cross

1 Did you say that earlier?

2 **A.** I cannot remember that.

3 **Q.** I think you did because you were talking about the
4 little like distributor CPL label on something, and you said
16:29:57 5 the label -- labels don't mean -- label mean nothing; is
6 that correct?

7 **A.** Probably. I mentioned it in another way. The label
8 means nothing to see if it's a Groeneveld pump or not.
9 That's what I mean.

16:30:13 10 So you can put a Groeneveld pump or a Lubecore label
11 on it and then the label means nothing. So the label
12 doesn't mean automatically that it's -- that it's not a
13 Groeneveld pump.

14 **Q.** That's true of everything in the world, isn't it? You
16:30:29 15 either trust labels or you don't.

16 MS. MICHELSON: Objection.

17 **Q.** You believe what the label says or you don't?

18 MS. MICHELSON: I'm going to object. I don't
19 hear a question.

16:30:39 20 THE COURT: Overruled.

21 THE WITNESS: Can you repeat the question,
22 please?

23 **Q.** Sure. When you go to the grocery store and see a bag
24 of sugar that says Domino Sugar on it, do you believe that
16:30:50 25 that's Domino Sugar?

Van der Hulst - Cross

1 **A.** When I -- when I know -- when I bought it, probably
2 more before, and I know the shape and whatever, yes, I think
3 it's -- it's that, yes.

4 **Q.** Even if it's the first time you bought it, you would
16:31:05 5 look at it and think wow, is this really Domino Sugar or
6 someone else's?

7 **A.** For the first time, I have no doubt why.

8 **Q.** You have not?

9 **A.** The first time, you have no doubt because you buy it
16:31:16 10 because you buy it.

11 **Q.** Now Groeneveld manufactures I think you testified
12 several different types of pumps, correct?

13 **A.** Yes.

14 **Q.** I want to make sure the glare is not on all of these.
16:31:33 15 So let's start on the end.

16 **A.** I can see it.

17 **Q.** This one here, that's the Groeneveld EP-0?

18 **A.** EP-0, yes.

19 **Q.** What is this pump?

16:31:49 20 **A.** This can be a twin pump, can be a progressive pump,
21 can be one plus pump, can be a breaker lube pump.

22 **Q.** How can it be all those?

23 **A.** You cannot see sold -- I cannot see it from the
24 picture. You have to go more into the details of the photo.

16:32:09 25 **Q.** This one?

Van der Hulst - Cross

1 **A.** This is a Compulube.

2 **Q.** A Compulube?

3 **A.** A Compulube is a promatic zero pump also.

4 **Q.** Are any of these multi-line pumps?

16:32:19 5 **A.** What did you say?

6 **Q.** Any of these multi-line pumps?

7 **A.** Yeah, it can be one of the three. It can be
8 double-line pumps, triple-line pumps, all single-line pumps,
9 progressive.

16:32:35 10 **Q.** And this one here?

11 **A.** This can be the same as the one -- as the second one?
12 Because I cannot see it from this -- from this drawing.

13 **Q.** And I noticed that these pumps all had their label on
14 them, correct?

16:32:48 15 **A.** Yeah.

16 **Q.** And some of them were filled with grease, correct, at
17 least the last two?

18 **A.** Yeah.

19 **Q.** And the grease is brown?

16:32:55 20 **A.** The grease is brown. So it's EP-2 grease, yeah.

21 **Q.** And you can clearly see what the label is even with
22 grease in the reservoir, correct?

23 **A.** Yeah.

24 **Q.** Now, all of the pumps other than the EP-0 pump, what's
16:33:12 25 the base made out of?

Van der Hulst - Cross

1 **A.** Nylon.

2 **Q.** More like a cover than a base, isn't it?

3 **A.** What did you say?

4 **Q.** Nylon is really like a cover than it is a base, isn't
16:33:22 5 it?

6 **A.** No, it's only also a base because when you see the
7 back side of the pump where you mount against the chassis,
8 also this is nylon.

9 **Q.** But, if you open that up, there might be empty space
16:33:33 10 in it where there's different parts in there?

11 **A.** Not all different parts. It can be cylinder in there,
12 an engine in there, everything inside.

13 **Q.** Given that all of the -- all of the literature we have
14 seen shows the EP-0 pump with its label on it, do you -- how
16:34:14 15 could you possibly know one way or the other if anybody
16 who's looking at the Groeneveld pump is identifying it as a
17 Groeneveld pump by anything other than the label?

18 **A.** Very simple. When you buy a Volkswagen and not a name
19 on the car, you can see from a distance that it is a
16:34:38 20 Volkswagen.

21 **Q.** That's a very good analogy, Mr. Van der Hulst, because
22 Volkswagens have bodies to them that cover up all the ugly
23 stuff. There's the engine, the wheels, the springs, there's
24 the differential, there's the drive shaft, correct?

16:34:54 25 **A.** Yes.

Van der Hulst - Cross

1 Q. And automakers try to make the outside, the outer
2 shell, the metal, look different, correct?

3 A. Yes.

4 Q. I don't see where the outer shell is on the EP-0 pump?

16:35:06 5 A. This is outer shell different than all the other
6 pumps.

7 Q. It's not more like the water pump inside the car than
8 a car?

9 A. Can you repeat?

16:35:18 10 Q. Sure. Isn't that pump more like a water pump inside a
11 car than it is like the car?

12 A. No, of course not. This is a final product. It's the
13 functional. This can be an engine. This can be your car.

14 Q. So your testimony is that consumers of automated
16:35:41 15 lubrication systems --

16 A. Know from a distance this is a Groeneveld pump.

17 Q. Do they purchase the Groeneveld pump because it's
18 pretty or because it functions?

19 A. Because there's a name behind it.

16:35:51 20 Q. That's not my question. Do they purchase it because
21 it's pretty or because it functions?

22 A. Because it functions.

23 Q. Do people purchase cars because they like the way they
24 look or because of the way they function?

16:36:08 25 A. Also because of function.

Van der Hulst - Cross

1 Q. Totally?

2 A. I think so.

3 Q. Well, you testified Groeneveld has never had any pump
4 recalls, correct, of this pump?

16:36:45 5 A. Recalls, yes, never.

6 Q. You had service issues?

7 A. Of course, service issues. You have warranty service,
8 of course.

9 Q. And you sold about 650,000 of these in the last few
16:36:51 10 years?

11 A. I think around 650,000.

12 Q. And 1 percent of those have had service problems?

13 A. I think we are less than .5 at the moment.

14 Q. You testified over time it had been like 1 percent?

16:37:07 15 A. It could be 1 percent in the past, yeah.

16 Q. What's 1 percent of 650,000?

17 A. No, no. You make big mistake. You have to see it
18 year by year.

19 Q. So you had more problems in the early years?

16:37:17 20 A. Of course when you start with the pump, new pump, you
21 can have problems.

22 Q. Why?

23 A. Because you are not perfect, we are not perfect, we
24 create something which is not perfect.

16:37:31 25 Q. Has Groeneveld ever had pumps that leaked?

Van der Hulst - Cross

1 **A.** Yes.

2 **Q.** Has Groeneveld ever had pumps that have fallen off of
3 trucks?

4 **A.** Also, yes.

16:37:39 5 **Q.** I think you testified -- correct me I may have
6 misunderstood, but you said the pump was very introduced in
7 the market, and I think you meant by that that you sold a
8 lot of them, correct?

9 **A.** Yes.

16:38:17 10 **Q.** Do you know how many EP-0 pumps have been sold in the
11 United States?

12 **A.** No.

13 **Q.** You don't know when you say very introduced, you have
14 no idea market penetration in the United States?

16:38:32 15 **A.** I have no idea about commercial. I know how many
16 pumps are leaving our factory. And where they go to, I
17 don't know exactly.

18 MR. ANASTOS: Hold on a second.

19 Thank you, Mr. Van der Hulst. I have no further
16:39:02 20 questions.

21 THE COURT: Thank you. Any redirect?

22 MS. MICHELSON: Just a couple things, your
23 Honor.

24 THE COURT: Sure.

16:39:09 25

Van der Hulst - Redirect

REDIRECT EXAMINATION OF WILLEM VAN DER HULSTBY MS. MICHELSON:

Q. Mr. Van der Hulst, you were asked on cross-examination about the cost of the pump to make it. And if it would cost more if you used more material. Do you recall just testifying about that?

A. Yeah.

Q. Okay. If you're using the same amount of material, but just making the shape different, the configuration different, does that make it cost more?

A. Yes.

Q. How much more?

A. Depending on the weight, each ground of each kilo of a million has an amount of costs.

Q. What if you use the same amount of aluminum?

A. In another shape?

Q. Correct. That's my question.

A. Then the cost will be the same.

Q. All right. Because I'm just confused, I need to clarify this. If you use the same amount of material, the same amount of aluminum, it's just shaped differently, does that affect the cost of production?

A. Probably don't affect the cost of the quantity of aluminum but it can affect the cost of the production to work the body because the part is not only the weight of the

Van der Hulst - Redirect

1 aluminum. The part is also the working of the body. So the
2 machine part of it, the machine part. So when you have this
3 cost of a body, you have the die casting, you have the
4 cleaning, you have the working of machining of the part, you
16:40:56 5 have the protection, oxidation of the part, the painting of
6 the part. All these costs together create the cost of this
7 part.

8 **Q.** Could you make this product in a different shape, this
9 EP-0 product in a different shape and it will cost the same?

16:41:17 10 **A.** Yes.

11 **Q.** So just explain that because I'm a little confused, I
12 must admit. How?

13 **A.** Well, you see the drawing of Ciaponi, the Ciaponi was
14 simple, chromatic pump and have a horizontal piston. I can
16:41:37 15 make a pump with a horizontal piston, and it cost the same,
16 and probably the same amount of aluminum. You have to study
17 that, yeah. I cannot tell you exactly on the gram, but
18 probably, yes.

19 **Q.** Okay.

16:41:53 20 Mr. Van der Hulst, obviously -- and this came out in
21 cross-examination -- Groeneveld has designed and
22 manufactured and distributed more than just the EP-0 pump
23 that's the subject of this case, right?

24 **A.** Yeah.

16:42:07 25 **Q.** Okay. So what's the big deal about this pump to

Van der Hulst - Redirect

1 Groeneveld?

2 **A.** Can you repeat?

3 **Q.** Why is this pump so important to Groeneveld? Do you
4 have other pumps?

16:42:18 5 **A.** Because this pump is the first pump we started. Our
6 first, let's say intellectual property, and we were very
7 successful with it, a lot of distributors and a lot of
8 dealers and even Mr. Eissis make with this pump a lot of
9 money. And, therefore, we are very proud we have made this
16:42:41 10 pump.

11 MR. ANASTOS: Objection, your Honor. Move to
12 strike.

13 MS. MICHELSON: I have no further questions of
14 the witness. Thank you, sir.

16:42:48 15 THE COURT: Anything based on that,
16 Mr. Anastos?

17 MR. ANASTOS: Thank you, your Honor. No.

18 THE COURT: Thank you, sir. You're excused.
19 Watch your step going down, please.

16:42:57 20 THE WITNESS: Okay. Thank you. Thank you.

21 THE COURT: I bet you want to go home. That
22 would be the first vote, should we go home. All right.

23 Folks, you had a long day. We appreciate your
24 patience with us and your attention. When you do go home,
16:43:15 25 those near and dear to you are going to be very curious

1 about what happened today. You can tell them that you've
2 been selected to sit as a juror on a case. Don't tell them
3 whether it's a criminal or civil case or anything about it.
4 Say you took an oath not to disclose anything until you
16:43:31 5 reach and return a verdict here in open court. And after
6 you do that, you'll be released from the admonition. And if
7 you want, you can talk to your heart's content and have them
8 honor the oath you've taken.

9 So again, get a good rest. No investigations, no
16:43:45 10 looking up anything, or doing anything because everything
11 that you need in order to make the fair decision will be
12 presented here in court.

13 So keep in mind the rest of the admonition. Have a
14 good night. And we meet 8:15 tomorrow morning, where
16:43:57 15 Mr. Yarger?

16 A JUROR: Butler, Ohio.

17 (Laughter.)

18 THE COURT: You better be here. We're the
19 police. We don't want to come and get you. We have ways of
16:44:09 20 getting you here, right?

21 So see you on L-1 at 8:15. That sounds good? See you
22 then. Have a good night.

23 (Proceedings adjourned at 4:45 p.m.)
24
25

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C E R T I F I C A T E

9

I certify that the foregoing is a correct
transcript from the record of proceedings in the
above-entitled matter.

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